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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2003 Tariff-Rate Quota Year

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document sets forth the revised appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2003 quota year reflecting the cumulative annual transfers from Appendix 1 to Appendix 2 for certain dairy product import licenses permanently surrendered by licensees or revoked by the Licensing Authority.

EFFECTIVE DATE: May 13, 2003.

FOR FURTHER INFORMATION CONTACT: Michael I. Hankin, Dairy Import Quota Manager, Import Policies and Programs Division, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1021 or telephone at (202) 720–9439.

SUPPLEMENTARY INFORMATION: The Foreign Agricultural Service, under a delegation of authority from the Secretary of Agriculture, administers the Dairy Tariff-Rate Import Quota Licensing Regulation codified at 7 CFR 6.20–6.37 that provides for the issuance of licenses to import certain dairy articles under tariff-rate quotas (TRQs) as set forth in the Harmonized Tariff Schedule of the United States. These dairy articles may only be entered into the United States at the low-tier tariff by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of the regulation.

Licenses are issued on a calendar year basis, and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country of origin. The Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, issues these licenses and, in conjunction with the U.S. Customs Service, monitors their use.

The regulation at 7 CFR 6.34(a) states: ''Whenever a historical license (Appendix 1) is not issued to an applicant pursuant to the provisions of § 6.23, is permanently surrendered, or is revoked by the Licensing Authority, the amount of such license will be transferred to Appendix 2.'' Section 6.34(b) provides that the cumulative annual transfers will be published in the **Federal Register**. Accordingly, this document sets forth the revised Appendices for the 2003 tariff-rate quota year.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, Reporting and record keeping requirements.

Michael I. Hankin,
Licensing Authority.

■ Accordingly, 7 CFR Part 6 is amended as follows:

PART 6—IMPORT QUOTAS AND FEES

■ 1. The authority citation for Part 6, Subpart—Dairy Tariff-Rate Import Quota Licensing continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

■ 2. Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing are revised to read as follows:

BILLING CODE 3410–10–P

Appendices 1, 2 and 3 to Subpart--Dairy Tariff-Rate Import Quota Licensing

Articles Subject to: Appendix 1, Historical Licenses; Appendix 2, Nonhistorical Licenses; and Appendix 3, Designated Importer Licenses for Quota Year 2003
(quantities in kilograms)

Article by Additional U.S. Note Number and Country of Origin NON-CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
BUTTER (NOTE 6)	**5,465,951**	**1,511,049**		
EU-15	75,918	20,243		
New Zealand	118,082	32,511		
Other Countries	62,639	11,296		
Any Country	5,209,312	1,446,999		
DRIED SKIM MILK (NOTE 7)	**600,076**	**4,660,924**		
Australia	600,076			
Canada		219,565		
Any Country		4,441,359		
DRIED WHOLE MILK (NOTE 8)	**3,175**	**3,318,125**		
New Zealand	3,175			
Any Country		3,318,125		
DRIED BUTTERMILK/WHEY (NOTE 12)	**63,820**	**161,161**		
Canada		161,161		
New Zealand	63,820			
BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (NOTE 14)		**6,080,500**		
Any Country		6,080,500		
TOTAL: NON-CHEESE ARTICLES	***6,133,022***	***15,731,759***		

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
CHEESE AND SUBSTITUTES FOR CHEESE (EXCEPT: SOFT RIPENED COW'S MILK CHEESE; CHEESE NOT CONTAINING COW'S MILK; CHEESE (EXCEPT COTTAGE CHEESE) CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT; AND, ARTICLES WITHIN THE SCOPE OF OTHER IMPORT QUOTAS PROVIDED FOR IN THIS SUBCHAPTER) (NOTE 16)	**23,548,526**	**7,921,205**	**9,661,128**	**7,496,000**
Argentina	7,690		92,310	
Australia	535,628	5,542	758,830	1,750,000
Canada	1,031,946	109,054		
Costa Rica				1,550,000
Czech Republic				200,000
EU-15	15,386,005	6,945,427	1,132,568	2,346,000
Of which Portugal is:	127,536	1,773	223,691	
Israel	79,696		593,304	
Iceland	294,000		29,000	
New Zealand	4,461,713	353,759	6,506,528	
Norway	124,982	25,018		
Poland	917,497	18,727		300,000
Slovak Republic				600,000
Switzerland	597,513	73,899	548,588	500,000
Uruguay				250,000
Other Countries	111,856	89,779		
Any Country		300,000		
BLUE-MOLD CHEESE (EXCEPT STILTON PRODUCED IN THE UNITED KINGDOM) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, BLUE-MOLD CHEESE (NOTE 17)	**2,290,547**	**190,454**		**430,000**
Argentina	2,000			
EU-15	2,288,546	190,454		300,000
Chile				80,000
Czech Republic				50,000
Other Countries	1			

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
CHEDDAR CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, CHEDDAR CHEESE (NOTE 18)	**3,659,803**	**624,053**	**519,033**	**7,620,000**
Australia	937,721	46,778	215,501	1,250,000
Chile				220,000
Czech Republic				50,000
EU-15	57,168	205,832		1,000,000
New Zealand	2,539,040	257,428	303,532	5,100,000
Other Countries	125,874	14,015		
Any Country		100,000		
AMERICAN-TYPE CHEESE, INCLUDING COLBY, WASHED CURD AND GRANULAR CHEESE (BUT NOT INCLUDING CHEDDAR) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING OR PROCESSED FROM SUCH AMERICAN-TYPE CHEESE (NOTE 19)	**2,842,435**	**323,118**	**357,003**	
Australia	830,124	50,874	119,002	
EU-15	186,222	167,778		
New Zealand	1,662,224	99,775	238,001	
Other Countries	163,865	4,691		
EDAM AND GOUDA CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, EDAM AND GOUDA CHEESE (NOTE 20)	**5,276,970**	**329,432**		**1,210,000**
Argentina	119,003	5,997		110,000
Czech Republic				100,000
EU-15	5,018,248	270,752		1,000,000
Norway	114,318	52,682		
Other Countries	25,401	1		
ITALIAN-TYPE CHEESES, MADE FROM COW'S MILK, (ROMANO MADE FROM COW'S MILK, REGGIANO, PARMESAN, PROVOLONE, PROVOLETTI, SBRINZ, AND GOYA-NOT IN ORIGINAL LOAVES) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH ITALIAN-TYPE CHEESES, WHETHER OR NOT IN ORIGINAL LOAVES (NOTE 21)	**6,502,444**	**1,018,103**	**795,517**	**5,165,000**
Argentina	3,956,114	169,369	367,517	1,890,000
EU-15	2,535,930	846,070		700,000
Poland				1,325,000
Romania				500,000
Uruguay			428,000	750,000
Other Countries	10,400	2,664		

Article by Additional U.S. Note Number and Country of Origin CHEESE ARTICLES	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
SWISS OR EMMENTHALER CHEESE OTHER THAN WITH EYE FORMATION, GRUYERE-PROCESS CHEESE AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH CHEESES (NOTE 22)	**5,735,723**	**915,591**	**823,519**	**380,000**
EU-15	4,336,501	815,493	393,006	380,000
Switzerland	1,324,462	95,025	430,513	
Other Countries	74,760	5,073		
CHEESE AND SUBSTITUTES FOR CHEESE, CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT (EXCEPT ARTICLES WITHIN THE SCOPE OF OTHER TARIFF-RATE QUOTAS PROVIDED FOR IN THIS SUBCHAPTER), AND MARGARINE CHEESE (NOTE 23)	**3,825,265**	**599,643**	**1,050,000**	
EU-15	3,662,021	587,979		
Israel			50,000	
New Zealand			1,000,000	
Poland	163,243	11,664		
Other Countries	1			
SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (NOTE 25)	**18,228,931**	**4,068,400**	**9,557,945**	**2,620,000**
Argentina		9,115	70,885	
Australia	209,698		290,302	
Canada			70,000	
Czech Republic				400,000
Hungary				800,000
EU-15	13,236,214	3,240,614	4,003,172	1,220,000
Iceland	149,999		150,001	
Israel	27,000			
Norway	3,206,405	448,905	3,227,690	
Switzerland	1,314,340	369,765	1,745,895	200,000
Other Countries	85,275	1		
TOTAL: CHEESE ARTICLES	***71,910,644***	***15,989,999***	***22,764,145***	***24,921,000***

[FR Doc. 03–11888 Filed 5–12–03; 8:45 am]
BILLING CODE 3410–10–C

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Doc. No. TB–02–14]

RIN 0581–AC11

Flue-Cured Tobacco Advisory Committee; Amendment to Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that amended the regulations for the Flue-Cured Tobacco Advisory Committee (FCTAC) by removing the sections which specify composition of the committee. The interim final rule allowed greater flexibility in responding to changing marketing conditions.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, STOP 0280, 1400 Independence Avenue, SW., Washington, DC 20250–0280; telephone number (202) 205–0567.

SUPPLEMENTARY INFORMATION: Since 1935, upon enactment of the Tobacco Inspection Act, the USDA has provided mandatory inspection services at designated tobacco auction markets. In 2002, based on results of referenda conducted among producers eligible for price support, regulations were amended to provide mandatory inspection at places other than designated tobacco auction markets. The USDA has always sought the input of the industry in implementing legislative authority concerning marketing due to the large geographic areas involved and the different procedure in individual types of tobacco such as size and weight of packages used to display the product, the number of designated markets, the number of sets of buyers present, the number of sales days, and other matters that directly impact on the operation of the auction markets and, therefore, the Federal presence necessary to provide the level of service desired by producers and industry.

In 1974, at the request of the industry, the USDA established the Flue-Cured Tobacco Advisory Committee (FCTAC) to provide a mechanism for consultation with flue-cured producers, warehouse representatives, and buying interests on the problems peculiar to that type of tobacco with particular emphasis on the grower designation program. The composition of the committee was specified in regulations although it was not necessary and is not customary. The FCTAC recommended that the regulations referencing its composition and representation be removed. Removal of these regulations will not alter the FCTAC's purpose nor direction for an orderly marketing of tobacco but will allow the USDA more flexibility in making structural changes in its composition as a result of new marketing changes. Historically, almost all flue-cured tobacco was sold at auction. In recent years, most flue-cured tobacco has been sold under contract.

The USDA published in the **Federal Register** on October 1, 2002 (67 FR 61467), an interim final rule amending the regulations for the FCTAC by removing the sections which specify composition of the committee. In that action, paragraphs (b), (c), (d), and (e), of § 29.9403, were removed. The USDA requested comments on the interim final rule and the comment period expired on October 31, 2002. No comments were received.

Executive Order 12866 and 12988

This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The rule will not exempt any State of local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

In conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are approximately 190 tobacco warehouses and approximately 450,000 tobacco producers and most warehouses and producers may be classified as small entities. The AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not substantially affect the normal movement of the commodity into the marketplace. Compliance with this final rule will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share of competitive positions of small entities relative to the large entities and will in no way affect normal competition in the marketplace. This rule merely removes section of the regulations that specify composition of the FCTAC.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping procedures, Tobacco.

■ For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

■ Accordingly, the interim final rule amending 7 CFR part 29 which was published at 67 FR 61467 on October 1, 2002, is adopted as a final rule without change.

Dated: May 7, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 03–11890 Filed 5–12–03; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY–02–007]

RIN 0581–AC24

Requirements for the USDA ''Produced From'' Grademark for Shell Eggs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is clarifying the requirements for using the ''Produced From'' grademark for shell eggs. Use of this grademark began in April 1998. Since then, questions have arisen regarding the regulatory language. This amendment clarifies the language of the ''Produced From'' grademark

requirements by removing the reference to continuous supervision. This action is to ensure the integrity of the USDA quality consumer grademark.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, (202) 720–3271.

SUPPLEMENTARY INFORMATION:

Background

AMS administers a voluntary grading program for shell eggs under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). Any interested person, commercial firm, or government agency that applies for service must comply with the terms and conditions of the regulations and must pay for the services rendered. AMS graders monitor processing operations and verify the grade and size of eggs packed into packages bearing the USDA grademark.

Current regulations allow for the use of several different grademarks to identify consumer-pack USDA graded shell eggs or products prepared from them. The regulations also include the eligibility requirements for eggs to be identified with an official grademark. One requirement is that only eggs produced under the continuous supervision of a grader may be identified as U.S. Consumer Grade AA or A.

A ''Produced From'' grademark was added to the regulations, effective April 20, 1998 (63 FR 13329, March 19, 1998). As currently written, the regulations state that ''the ''Produced From'' grademark ''may be used to identify products for which there are no official U.S. grade standards (*e.g.*, pasteurized shell eggs), provided that these products are approved by the Agency and are prepared from U.S. Consumer Grade AA or A shell eggs under the continuous supervision of a grader.''

The intent of the regulations was to ensure that the eggs used to produce the products were U.S. Consumer Grade AA or A. However, the regulations could also be interpreted to mean that the products produced from the U.S. Consumer Grade AA or A shell eggs must be produced under continuous supervision. However, this was not the Department's intent nor is it a requirement.

The Agency determined that the reference to both U.S. Consumer AA and A and to continuous supervision was redundant and confusing. Therefore, to clarify the regulatory language, the reference to continuous supervision is removed.

Proposed Rule and Comments

The proposed rule was published in the **Federal Register** January 9, 2003 (68 FR 1169). The comment period ended March 10.

Two comments were received, each from a group of students taking the same course in an accelerated university business curriculum. Both groups discussed research they conducted among vendors, consumers, and local agricultural interests about shell egg grading. Both groups supported the proposed amendment.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this rule on small entities and has determined that its provisions would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines small entities that produce and process chicken eggs as those whose annual receipts are less than $9,000,000 (13 CFR 121.201). Approximately 625,000 egg laying hens are needed to produce enough eggs to gross $9,000,000.

Currently, the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) authorizes a voluntary grading program for shell eggs. Shell egg processors that apply for service must pay for the services rendered. These user fees are proportional to the volume of shell eggs graded, so that costs are shared by all users. Plants in which these grading services are performed are called official plants. Shell egg processors who do not use USDA's grading service may not use the USDA grade shield. There are about 625 shell egg processors registered with the Department that have 3,000 or more laying hens. Of these, 175 are official plants that use USDA's grading service and would be subject to this proposed rule. Of these 175 official plants, 57 meet the small business definition.

This rule will benefit large and small processors in the industry. It is intended to clarify a regulatory provision which has caused some confusion and involves no additional costs.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), OMB has approved the information collection and recordkeeping requirements included in this rule, and there are no new requirements. The assigned OMB control number is 0581–0128.

List of Subjects in 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

■ For reasons set forth in the preamble, 7 CFR part 56 is amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. In § 56.36, paragraph (a)(3) is amended by adding a period after the word ''eggs'' the second time it appears in the paragraph and by removing the words ''under the continuous supervision of a grader.''

Dated: May 7, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 03–11889 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV03–985–3 C]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of Administrative Rules and Regulations Governing Issuance of Additional Allotment Base to New and Existing Producers; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendment.

SUMMARY: The Agricultural Marketing Service (AMS) is adding provisions to the Code of Federal Regulations governing the issuance of additional allotment base to existing spearmint oil producers under the marketing order regulating the handling of spearmint oil grown in the Far West. These provisions were inadvertently removed in May 2000 when additional allotment base provisions for new producers were modified.

EFFECTIVE DATE: May 14, 2003.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20090–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION:

Background

AMS discovered that an error exists in § 985.153 of the codified regulations. A final rule published in the **Federal Register** on Thursday, May 11, 2000 (65 FR 30341), was intended to revise provisions in § 985.153(c)(1) governing issuance of additional allotment base to new spearmint oil producers in the Far West and to leave the provisions in § 985.153(c)(2) on additional allotment base for existing producers unchanged. However, the editing instructions specified in the final rule resulted in the provisions for existing producers being removed from the codified regulations.

Need for Correction

The codified provisions in paragraph (c) of § 985.153 do not include additional allotment base procedures for existing producers. This correction document adds such provisions. The provisions added are the same as those that were in paragraph (c)(2) prior to the issuance of the final rule in May 2000.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

■ Accordingly, 7 CFR Part 985 is corrected by making the following amendment:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 985.153 [Corrected]

■ 2. In § 985.153, paragraph (c)(2) is added to read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

* * * * *

(c) * * *

(2) *Existing producers.* (i) The Committee shall review all requests from existing producers for additional allotment base.

(ii) Each existing producer of a class of spearmint oil who requests additional allotment base and who has the ability to produce additional quantities of that class of spearmint oil, shall be eligible to receive a share of the additional allotment base for that class of oil. Additional allotment base to be issued by the Committee for a class of oil shall be distributed equally among the eligible producers for that class of oil. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount.

Dated: May 7, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–11891 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1 and 11

[Docket No. FAA–2003–15134, Amdt. Nos. 1–51 and 11–48] [Docket No. DOT 20860]

Revision of Public Aircraft Definition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The Federal Aviation Administration is amending its regulations to conform them to the statutory definition of ''public aircraft,'' as revised by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. This amendment is necessary to make the definition and requirements in the regulations consistent with those in the statute. This amendment also restores to the regulation a description of the statutory requirements for units of government to obtain exemptions for their civil aircraft.

EFFECTIVE DATE: May 13, 2003.

FOR FURTHER INFORMATION CONTACT: David Catey, (AFS–220), Flight Standards Service; Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8094.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm; or*

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act

statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Background

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) was signed into law as Public Law 106–181. Among other provisions, the law revised the statutory definition of the term ''public aircraft.'' This technical amendment revises the definition of ''public aircraft'' in title 14 of the Code of Federal Regulations to conform to the statutory definition in Public Law 106–181.

The distinction between civil and public aircraft is that public aircraft are excepted from many FAA regulations. The changes enacted in AIR–21 did not substantively change the definition of public aircraft. Rather, Congress sought to clarify an overly complex statutory definition: ''[t]he purpose and intent of Congress in adding section 702 to H.R. 1000 [AIR–21] is solely to replace old convoluted language (laden with multiple negatives) with positive language that states existing law in terms that are readily understood by both the nation's aviation community and the general public. Nothing in section 702 should be interpreted as a change in current public policy relating to public aircraft.'' (H.R. Rep. No. 106–167, pt. 1, at 91 (1999)). This technical amendment involves no exercise of agency discretion, as the statutory definition is already the controlling legal authority.

Disposition of Comments to Previous Revision

Prior to the enactment of AIR–21, Congress revised the definition of ''public aircraft'' in the Independent Safety Board Act Amendments of 1994 (Pub. L. 103–411, enacted on October 25, 1994). Public Law 103–411 substantively changed the definition of public aircraft, and further, it gave the Administrator of the FAA the authority to grant exemptions to government entities whose operations lost public aircraft status as a result of Public Law 103–411 (Pub. L. 103–411, section 3(b)).

In 1995, the FAA issued a final rule amending the definition of public aircraft in 14 CFR 1.1 (60 FR 5074, January 25, 1995). The FAA also requested comments from the public on this action. The FAA received 14 comments on the rule, with the majority expressing concern over exemptions rather than the definition of ''public aircraft.''

The National Association of State Aviation Officials and a county law enforcement agency commented that new requirements on ''compensation'' and ''commercial purpose'' would severely impair law enforcement agencies' ability to cooperate and respond to disasters properly. These comments are no longer applicable because of the statutory revision in 2000.

The Professional Aviation Maintenance Association supported the rule without further comment. All other commenters were air carriers that supported the rule but opposed allowing an excessive number of exemptions under the then-new statutory authority.

Revised Definition of Public Aircraft

This technical amendment changes the definition of ''public aircraft'' to adopt the statutory definition in Public Law 106–181 and as codified in 49 U.S.C. 40102. The amended definition also contains the qualifications for public aircraft status from Public Law 106–181 and as codified in 49 U.S.C. 40125. This technical amendment also restores to 14 CFR part 11 the language of Public Law 103–411 concerning statutory exemptions for government entities whose aircraft lost public aircraft status as a result of that revision. This language was omitted in the revision of part 11 in 2000.

No Notice—Immediate Adoption of Change

The FAA has not conducted notice and comment procedures for this rule. Notice and comment are not required when it would be ''impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C. 553(b). This technical amendment will make the regulations consistent with the statute and will have no substantive legal effect. Therefore, the FAA finds that notice and comment are unnecessary. This amendment will take effect immediately, as it is not a substantive amendment that requires a 30-day period between publication in the **Federal Register** and the effective date. *See* 5 U.S.C. 553(d).

Rulemaking Analyses

This regulation imposes no additional burden or requirement on the regulated industry, any person, or organization. Therefore, we have determined the action is not a significant rule under Executive Order 12866 or under Department of Transportation Regulatory Policy and Procedures. Also, because this regulation is editorial in nature, the FAA expects minimal impact and finds that a full regulatory evaluation is not required since the regulation will simply conform to the statute. In addition, the FAA certifies that the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 1 and 11 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

■ 1. In § 1.1 revise the definition of ''public aircraft'' to read as follows:

§ 1. 1 General definitions.

* * * * *

Public aircraft means any of the following aircraft when not being used for a commercial purpose or to carry an individual other than a crewmember or qualified non-crewmenber:

(1) An aircraft used only for the United States Government; an aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration; an aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments; or an aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments.

(i) For the sole purpose of determining public aircraft status, *commercial purposes* means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the

government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(ii) For the sole purpose of determining public aircraft status, *governmental function* means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(iii) For the sole purpose of determining public aircraft status, *qualified non-crewmember* means an individual, other than a member of the crew, aboard an aircraft operated by the armed forces or an intelligence agency of the United States Government, or whose presence is required to perform, or is associated with the performance of, a governmental function.

(2) An aircraft owned or operated by the armed forces or chartered to provide transportation to the armed forces if—

(i) The aircraft is operated in accordance with title 10 of the United States Code;

(ii) The aircraft is operated in the performance of a governmental function under title 14, 31, 32, or 50 of the United States Code and the aircraft is not used for commercial purposes; or

(iii) The aircraft is chartered to provide transportation to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) designates the operation of the aircraft as being required in the national interest.

(3) An aircraft owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, and that meets the criteria of paragraph (2) of this definition, qualifies as a public aircraft only to the extent that it is operated under the direct control of the Department of Defense.

* * * * *

PART 11—GENERAL RULEMAKING PROCEDURES

■ 3. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

■ 4. Add new § 11.103 to read as follows:

§ 11.103 What exemption relief may be available to federal, state, and local governments when operating aircraft that are not public aircraft?

The Federal Aviation Administration may grant a federal, state, or local government an exemption from part A of subtitle VII of title 49 United States Code, and any regulation issued under that authority that is applicable to an aircraft as a result of the Independent Safety Board Act Amendments of 1994, Public Law 103–411, if—

(a) The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

(b) The Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

Issued in Washington, DC on May 5, 2003.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 03–11922 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–24–AD; Amendment 39–13144; AD 2003–10–01]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to General Electric (GE) CF6–6 series turbofan engines. This amendment requires a reduction of the cyclic life limit for certain high pressure turbine rotor (HPTR) rear shafts, and requires removing certain HPTR rear shafts from service before exceeding the new, lower cyclic life limit. In addition, this amendment requires removing from service certain HPTR rear shafts that currently exceed, or will exceed, the new, lower cyclic life limit according to the compliance schedule described in this AD. This amendment is prompted by an updated low-cycle-fatigue (LCF) analysis performed by the manufacturer that resulted in a lower cyclic life limit for certain HPTR rear shaft part numbers (PNs) installed in CF6–6 engines. The actions specified by this AD are intended to prevent cracks in HPTR rear shafts that could result in uncontained engine failure and damage to the airplane.

DATES: Effective June 17, 2003.

ADDRESSES: Information regarding this action may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7192; fax 781–238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to GE CF6–6 series turbofan engines was published in the **Federal Register** on January 8, 2003 (68 FR 1016). That action proposed to require a reduction of the cyclic life limit for certain HPTR rear shafts, and to require removing certain HPTR rear shafts from service before exceeding the new, lower cyclic life limit. In addition, that action proposed to require removing from service certain HPTR rear shafts that currently exceed, or will exceed, the new, lower cyclic life limit according to the compliance schedule described in that proposal.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

There are approximately 55 GE CF6–6 series turbofan engines of the affected design in the domestic fleet that would be affected by this AD. There are no foreign registered engines. There are no labor or parts costs associated with the implementation of this AD. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $41,690 per engine, which is the cost of new rear shafts.

Regulatory Analysis

This final rule does not have federalism implications, as defined in

Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2003–10–01 General Electric Company: Amendment 39–13144. Docket No. 2002–NE–24–AD.

Applicability: This airworthiness directive (AD) is applicable to General Electric Company CF6–6 series turbofan engines. These engines are installed on, but not limited to McDonnell Douglas DC–10 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent cracks in high pressure turbine rotor (HPTR) rear shafts, which could result in uncontained engine failure and damage to the airplane, do the following:

(a) Remove from service HPTR rear shafts, part numbers (P/Ns) 9137M13G01/G02/G03, 9138M22G01/G02/G09/G10, 9138M25G02, and 9687M22G04/G07/G10 in accordance with Table 1 as follows:

TABLE 1.—HPTR REAR SHAFT REMOVAL SCHEDULE

If the rear shaft cycles-since-new (CSN) on the effective date of this AD are:	Then remove the rear shaft
(1) Fewer than 5,000 CSN	Before exceeding 8,950 CSN.
(2) 5,000 CSN or more, but fewer than 8,950 CSN	Within 3,950 additional cycles-in-service (CIS) from the effective date of this AD or before 11,550 CSN, whichever occurs earlier.
(3) 8,950 CSN or more	At next HPTR rear shaft piece part exposure, or within 2,600 additional CIS, whichever occurs earlier.

(b) After the effective date of this AD, do not install any HPTR rear shaft, P/Ns 9137M13G01/G02/G03, 9138M22G01/G02/G09/G10, 9138M25G02, or 9687M22G04/G07/G10, that has 8,950 or more CSN into an engine.

(c) Except as provided in paragraph (a) of this AD, this action establishes a new, cyclic life limit of 8,950 CSN for HPTR rear shaft P/Ns 9137M13G01/G02/G03, 9138M22G01/G02/G09/G10, 9138M25G02, and 9687M22G04/G07/G10 which is published in Chapter 05–11–03 of CF6–6 Engine Shop Manual, GEK 9266.

Definition

(d) For the purpose of this AD, HPTR rear shaft piece-part exposure is defined as complete disassembly of the rear shaft from the HPTR structure using the manufacturer's engine manual.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Effective Date

(g) This amendment becomes effective on June 17, 2003.

Issued in Burlington, Massachusetts, on May 5, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–11864 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–13514; Airspace Docket No. 02–AWA–4]

RIN 2120–AA66

Establishment of Class C Airspace and Revocation of Class D Airspace, Fayetteville (Springdale), Northwest Arkansas Regional Airport; AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class C airspace area and revokes the existing Class D airspace area at the Northwest Arkansas Regional Airport (XNA), Fayetteville (Springdale), AR. The FAA is taking this action due to the increase in aircraft operations at XNA and the potential for a midair collision between aircraft arriving and departing XNA and other aircraft operating close to the

existing Class D airspace area. The establishment of this Class C airspace area requires pilots to establish and maintain two-way radio communications with air traffic control (ATC) when operating in the Class C airspace area, and operate with an altitude encoding transponder while in and above the Class C airspace area. This action promotes the efficient use of airspace and reduces the risk of midair collision in the northwest Arkansas terminal area.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2003, the FAA proposed (68 FR 3837) to establish a Class C airspace area and revoke the existing Class D airspace area at XNA. The FAA proposed this action due to an increase in aircraft operations at XNA and a study indicating an increased potential for a midair collision in the XNA terminal area. With the current Class D airspace area, aircraft operating in the Northwest Arkansas terminal area may fly as close as 4.4 nautical miles from XNA without communicating with ATC. These aircraft are frequently operating at altitudes that may conflict with aircraft arriving or departing XNA. Establishing a Class C airspace area will reduce the potential for midair collisions and increase the level of safety in the Northwest Arkansas terminal area by requiring aircraft to establish and maintain 2-way radio communication with ATC when operating in the proposed Class C airspace area, and to operate with an altitude encoding transponder when in and above the proposed area. The study also identified the need for improved communications in the XNA terminal area. In response to that need, the FAA has taken action to install a remote transmitter and receiver (RTR) that will enable pilots to contact ATC prior to entering terminal airspace.

Discussion of Comment

In response to the notice of proposed rulemaking, the FAA received one comment. The Aircraft Owner's and Pilots Association did not oppose the proposed establishment of a Class C airspace area provided an RTR is installed to improve the ability of pilots to communicate with ATC prior to entering the Class C airspace area. The FAA agrees that an RTR is needed and as stated above, has taken action to acquire and install an RTR that is scheduled to be operational on or before the effective date of this airspace action (barring any reduction of funding).

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class C airspace area and revokes the existing Class D airspace area at XNA. The FAA is taking this action due to an increase in aircraft operations and an increased potential for a midair collision in the Northwest Arkansas terminal area. Establishing this Class C airspace area will require pilots to maintain two-way radio communications with ATC when operating in the Class C airspace area and to operate with an altitude encoding transponder while in or above the Class C airspace. Additionally, this Class C airspace area will promote the safe and efficient use of airspace, and reduce the risk of a midair collision in the Northwest Arkansas terminal area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The coordinates for this airspace docket are based on North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be published subsequently in the order.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is not ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This final rule will not have a significant impact on a substantial number of small entities, will not constitute a barrier to international trade, and does not contain any Federal intergovernmental or private sector mandate. These analyses, available in the docket, are summarized below.

The final rule will revoke the Class D airspace area currently surrounding the Northwest Arkansas Regional Airport and will establish a Class C airspace area there. The FAA will incur costs of approximately $500 in order to send a ''Letter To Airmen'' to pilots within a 50-mile radius of the Northwest Arkansas Regional Airport informing them of the airspace change. The FAA will not incur any other costs for air traffic control staffing, training, or equipment. Changes to sectional charts will occur during the chart cycle and will cause no additional costs beyond the normal update of the charts. Any public meeting and safety seminar will not result in costs to the aviation community because they will occur regardless of whether or not this rule becomes final. Aircraft owners and operators will incur minimal equipment costs to operate in the Class C airspace area. Most of the air traffic comes from a mix of air taxi and commuter aircraft. These aircraft should already have the necessary equipment to transition Class C airspace area.

The FAA contends that establishing the Class C airspace area surrounding the Northwest Arkansas Regional Airport will increase the level of safety for the operations that occur at the airport. Therefore, the FAA has determined the final rule to be cost-beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the

business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Most commercial and most general aviation (GA) operators who presently use the Northwest Arkansas Airport should be currently equipped to use the Class C airspace area. Though it is currently surrounded by Class D airspace, most of its air traffic comes from air taxi and commuter aircraft. These aircraft already have the necessary equipment to transition Class C airspace area. Those GA operators who currently transit the Northwest Arkansas terminal area without Mode C transponders can circumnavigate the Northwest Arkansas Class C airspace area at negligible cost, without significantly deviating from their regular flight paths. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This final rule is a domestic airspace rulemaking and will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for those small governments to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

ASW AR C Northwest Arkansas Regional Airport, AR [New]

Northwest Arkansas Regional Airport, AR
(Lat. 36°16′55″ N., long. 94°18′25″ W.)

That airspace extending upward from the surface to and including 5,300 feet MSL within a 5-mile radius of the Northwest Arkansas Regional Airport, excluding that airspace east of a line from lat. 36°21′06″ N., long. 94°15′03″ W.; to lat. 36°15′30″ N., long. 94°12′28″ W.; and that airspace extending upward from 2,500 feet MSL to and including 5,300 feet MSL within a 10-mile radius of the Northwest Arkansas Regional Airport excluding that airspace east of a line from lat. 36°26′53″ N., long. 94°17′42″ W.; to lat. 36°09′43″ N., long. 94°09′49″ W.; and that airspace extending upward from 2,900 feet MSL to and including 5,300 feet MSL within a 10-mile radius of the Northwest Arkansas Regional Airport beginning at lat. 36°26′53″ N., long. 94°17′42″ W.; thence clockwise on the 10-mile radius of the airport to lat. 36°09′43″ N., long. 94°09′49″ W.; thence to the point of beginning. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 5000—Subpart D—Class D Airspace

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ASW AR D Fayettville (Springdale), Northwest Arkansas Regional Airport, AR [Removed]

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Issued in Washington, DC, on May 5, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–11920 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14463; Airspace Docket No. 03–ACE–16]

Modification of Class D Airspace; and Modification of Class E Airspace; Dubuque, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date

SUMMARY: This document confirms the effective date of the direct final rule

which revises Class D and Class E airspace at Dubque, IA.

DATES: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT, Regulation Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 5, 2003 (68 FR 10367). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11793 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14549; Airspace Docket No. 03–ACE–17]

Modification of Class D and Class E Airspace; St. Louis, Spirit of St. Louis Airport, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class D and Class E airspace at St. Louis, Spirit of St. Louis Airport, MO.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 12, 2003 (68 FR 11736). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11792 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14597; Airspace Docket No. 03–ACE–20]

Modification of Class E Airspace; Hampton, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Hampton, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 31, 2003 (68 FR 15349). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11791 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14195; Airspace Docket No. 03–ACE–1]

Modification of Class E Airspace; Fairmont, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Fairmont, NE.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 31, 2003 (68 FR 15343). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11790 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14595; Airspace Docket No. 03–ACE–18]

Modification of Class E Airspace; Emmetsburg, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Emmetsburg, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 21, 2003 (68 FR 13811). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 25, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11789 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14598; Airspace Docket No. 03–ACE–21]

Modification of Class E Airspace; Independence, IA

AGENCY: Federal Aviation Adminsitration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Independence, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 31, 2003 (68 FR 15345). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Dated: May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11788 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14462; Airspace Docket No. 03–ACE–15]

Modification of Class E Airspace; Denison, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Denison, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 28, 2003 (68 FR 9527). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11787 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No FAA–2003–14460; Airspace Docket No. 03–ACE–13]

Modification of Class E Airspace; Clinton, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Clinton, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 27, 2003 (68 FR 8999). The FAA uses the direct final rulemaking procedure for a not-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region

[FR Doc. 03–11786 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14596; Airspace Docket No. 03–ACE–19]

Modification of Class E Airspace; Greenfield, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Greenfield, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 25, 2003 (68 FR 14314). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11785 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14599; Airspace Docket No. 03–ACE–22]

Modification of Class E Airspace; Keokuk, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Keokuk, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on March 31, 2003 (68 FR 15346). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11784 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14461; Airspace Docket No. 03–ACE–14]

Modification of Class E Airspace; Davenport, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document coinfirms the effective date of the direct final rule which revises Class E airspace at Davenport, IA.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 27, 2003 (68 FR 8998). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 10, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on May 2, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–11783 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2003–14184; Airspace Docket No. 02–AWP–12]

RIN 2120–AA66

Amendment of Restricted Area R–2303A and R–2303B, Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the designated time of use for Restricted area 2303A (R–2303A) and 2303B (R–2303B), Fort Huachuca, AZ. Specifically, this action amends the designated time of use from ''Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' to ''Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance.'' Increased training requirements at Fort Huachuca have resulted in a continued need for restricted airspace usage up to 1700 hours, Monday through Friday. This action will not change the current boundaries or activities conducted in the airspace area.

EFFECTIVE DATE: 0901 UTC, September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On January 23, 2003, the FAA published in the **Federal Register** a notice proposing to amend R–2303A and R–2303B (68 FR 3198). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received regarding this rulemaking. Except for editorial changes, this amendment is the same as that proposed in the notice. These rulemaking actions ''are necessary in the interest of national defense,'' as required under 49 U.S.C. 40103(b)(3)(A).

The Rule

Based on the U.S. Army's request, this action amends Title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) to change the designated time of use for R–2303A and R–2303B. Specifically, this action modifies the designated time of use from ''Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' to ''Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance.'' Increased training requirements at Fort Huachuca have resulted in a need for restricted airspace usage up to 1700 hours, Monday through Friday. This action will not change the current boundaries or activities conducted in the airspace area.

Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K, dated September 26, 2002.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.23 [Amended]

■ 2. § 73.23 is amended as follows:

* * * * *

R–2303A, AZ [Amended]

By removing ''Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' and substituting ''Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance.''

R–2303B, AZ [Amended]

By removing ''Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance,'' and substituting ''Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance.''

* * * * *

Issued in Washington, DC, May 6, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 03–11781 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD08–02–018]

RIN 1625–AA01 [Formerly RIN 2115–AA98]

Anchorage Regulation; Bolivar Roads, Galveston, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is creating a new anchorage area in Bolivar Roads near Galveston, Texas. The establishment of this new anchorage area will enhance navigational safety, support regional maritime security needs, and contribute to the free flow of commerce in the Houston/Galveston area.

DATES: This rule is effective June 12, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD08–02–018] and are available for inspection or copying at Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 28, 2003, the Coast Guard published a notice of proposed rule making (NPRM) entitled ''Anchorage Regulation; Bolivar Roads, Galveston, TX'', in the **Federal Register** (68 FR 4130). We received no comments on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

At its February 2002 meeting, the Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) recommended establishment of a third anchorage area in the Galveston Bay area. HOGANSAC, a Congressionally-chartered Federal advisory committee, is responsible for advising, consulting with, and making recommendations to the Secretary of Transportation on matters relating to the transit of vessels to and from the ports of Galveston, Houston and Texas City and the safety of maritime navigation in the Galveston Bay area. Participants at the February 2002 HOGANSAC meeting noted that a third anchorage in the Bolivar Roads area was necessary to address port security and navigation safety concerns. After extensive discussion, including the observations of and comments from members of the public in attendance, HOGANSAC recommended that the Coast Guard establish a third anchorage area in Bolivar Roads.

Based on the recommendation of HOGANSAC the Coast Guard proposed a third anchorage area, anchorage area (C), in Bolivar Roads. This new anchorage area, located inside the Galveston Bay Entrance Jetties, will provide a sheltered location for vessels to anchor during heavy weather or reduced visibility conditions. The existing anchorages, anchorage area (A) and anchorage area (B), are generally full during these same periods and there is no alternative sheltered anchorage in Bolivar Roads. The location of anchorage area (C), abuts the western edge of anchorage area (B), is in a naturally deep portion of Bolivar Roads, and is outside any heavily traveled section of the waterway.

This third anchorage area is also necessary because port security-related initiatives adopted by various terminals and facilities in the Galveston Bay area have restricted pier side operations critical to the efficient flow of maritime commerce. For example, bunkering, provisions deliveries, and personnel transfer operations are restricted or prohibited by numerous facilities in the ports of Galveston, Houston and Texas City. The nature of those activities requires that they be accomplished in calm water conditions and relatively close to shore. As a result, vessel operators and ship owners rely upon the existing anchorage areas (anchorage areas (A) and (B)) in Galveston Bay to conduct these operations. Increasingly, anchorage space in those areas is in high demand. A third designated anchorage area would relieve congestion and provide anchorage space to accommodate the ever-increasing volumes of traffic in the Galveston Bay area.

Discussion of Comments and Changes

We received no comments on the proposed rule. Therefore, we have made no substantial changes to the provisions of the proposed rule.

Minor changes were made to the Regulatory Evaluation and authority sections due to the Coast Guard's transfer from the Department of Transportation to the Department of Homeland Security on March 1, 2003.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory and Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

The anchorage area will not unnecessarily restrict traffic as it is located outside the established navigable channel. Vessels will be able to maneuver in, around and through the anchorage. Operators who choose to maneuver their vessels around the limits of the anchorage area will not be significantly impacted because the total route deviation to cross from one side of the anchorage to the other following the perimeter of the anchorage is only 1.4 nautical miles.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The rule may potentially affect the following entities, some of which may be small entities: the owners or operators of vessels intending to fish or anchor in, or transit through the anchorage area (C) in Bolivar Roads.

The number of small entities impacted and the extent of the impact, if any, is expected to be minimal. The anchorage is located in an area of Bolivar Roads that is not a popular or productive fishing location. Further, the location is in an area not routinely transited by vessels heading to, or returning from, known fishing grounds. Finally, the anchorage is located in an area that is not currently used by small entities, including small vessels, for anchoring due to the depth of water naturally present in the area.

If you are a small business entity and are significantly affected by this regulation please contact Lieutenant (LT) Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, telephone (504) 589–6271.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking processes.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34)(f), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; Department of Homeland Security Delegation No. 0170 and 33 CFR 1.05–1(g).

■ 2. Amend § 110.197 to add paragraph (a)(3) and revise paragraph (b) to read as follows:

§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.

(a) * * *

(3) Anchorage area (C). The water bounded by a line connecting the following points:

Latitude	Longitude
29°20′39.0″ N	94°46′07.5″ W.
29°21′06.1″ N	94°47′00.2″ W.
29°21′24.0″ N	94°46′34.0″ W.
29°21′14.5″ N	94°45′49.0″ W.

and thence to the point of beginning.

(b) *The regulations.* (1) The anchorage area is for the temporary use of vessels of all types, but especially for vessels awaiting weather and other conditions favorable to the resumption of their voyages.

(2) Except when stress of weather makes sailing impractical or hazardous, vessels shall not anchor in anchorage areas (A) or (C) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston. Permission to anchor for longer periods may be obtained through Coast Guard Vessel Traffic Service Houston/Galveston on VHF–FM channels 12 (156.60 MHz) or 13 (156.65 MHz).

(3) No vessel with a draft of less than 22 feet may occupy anchorage (A) without prior approval of the Captain of the Port.

(4) No vessel with a draft of less than 16 feet may anchor in anchorage (C) without prior approval of the Captain of the Port Houston-Galveston.

(5) Vessels shall not anchor so as to obstruct the passage of other vessels proceeding to or from other anchorage spaces.

(6) Anchors shall not be placed in the channel and no portion of the hull or rigging of any anchored vessel shall extend outside the limits of the anchorage area.

(7) Vessels using spuds for anchors shall anchor as close to shore as practicable, having due regard for the provisions in paragraph (b)(5) of this section.

(8) Fixed moorings, piles or stakes, and floats or buoys for marking anchorages or moorings in place, are prohibited.

(9) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, or his authorized representative, may direct the movement of any vessel anchored or moored within the anchorage areas.

Dated: April 21, 2003.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 03–11810 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD07–03–069]

RIN 1625–AA11

Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area in Port Everglades Harbor, Fort Lauderdale, Florida to improve national security and safety of the harbor and increase the safety of law enforcement officers and high-risk vessels in the vicinity of Port Everglades Harbor. This temporary final rule establishes a slow speed zone in the harbor to control vessel speed and allow law enforcement vessels to control vessel movement in this waterway.

DATES: This rule is effective from 12:01 a.m. on Monday, April 28, 2003, until 12:01 a.m. on Monday, September 1, 2003. Comments and related material must be received on or before June 12, 2003.

ADDRESSES: You may mail comments and related material to Commanding Officer, U.S. Coast Guard, Marine Safety Office, 100 MacArthur Causeway, Miami, FL 33139. The Captain of the Port Miami maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jennifer Sadowski, Coast Guard Marine Safety Office Miami, Waterways Management at (305) 535–8701.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–03–069], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary rule in view of them.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NRPM. Publishing a NPRM and delaying the rule's effective date is contrary to national security and public safety, because immediate action is necessary to protect the public, ports, and waters of the United States.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for development of various security measures throughout the seaports of the United States. The President declared national emergencies following the September 11, 2001 terrorist attacks and has continued them, specifically: the continuing national emergency with respect to terrorist attacks, at 67 FR 58317 (Sep. 13, 2002); and continuing national emergency with respect to persons who commit, threaten to commit, or support terrorism, at 67 FR 59447 (Sep. 20, 2002). The President found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered since the terrorist attacks on the United States of September 11, 2001, and that such disturbances continue to endanger the Security of the United States, at Executive Order 13,273, 67 FR 56215 (Aug. 21, 2002). Following the attacks of well-trained and clandestine terrorists, national security and intelligence officials warned that future terrorist attacks are likely.

The Captain of the Port (COTP) of Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to Port Everglades because of the numerous high-capacity passenger vessels, vessels carrying hazardous cargo, critical infrastructure facilities including propane and petroleum processing facilities, and U.S. military vessels that utilize the port. Implementation of a port-wide slow speed regulated navigation area will greatly aid law enforcement officers in managing vessel traffic as any vessels not complying with the slow speed zone will quickly draw attention giving law enforcement more time to assess the situation and take appropriate action in protecting vessels within the port and port facilities. Prior to the creation of this temporary final rule, vessels were able to enter the harbor from sea at a high rate of speed and maintain a high rate of speed into the harbor until coming within close proximity of high capacity passenger vessels, vessels carrying hazardous cargo, critical

infrastructure facilities and U.S. military vessels that are often moored within an existing security zone. Law enforcement officers did not have sufficient time to react to vessels that failed to slow their speed prior to reaching the limits of the existing security zone. This regulated navigation area is necessary to protect the public, port, law enforcement officials, and waterways of the United States from potential subversive acts.

Nothing in this rule relieves vessels or operators from complying with all state and local laws in the regulated area, including manatee slow speed zones.

The Coast Guard intends to evaluate the need for making this temporary rule a permanent rule. We will consider comments solicited by this temporary rule and evaluate the effectiveness of this temporary rule in making that determination. The Coast Guard also anticipates publishing a notice of proposed rulemaking in the **Federal Register** to solicit additional comments. The notice and comment rulemaking process may be lengthy so this temporary rule is designed to be in effect until a final determination is made on whether a permanent rule is needed.

Discussion of Rule

The rule requires all vessels within the regulated navigation area to proceed at slow speed. Slow speed is defined as the speed at which a vessel proceeds when it is fully off plane, completely settled into the water and not creating excessive wake. This rule will minimize the potential national security hazards that could result from a vessel being permitted to transit through the harbor, in the vicinity of high capacity passenger vessels, vessels carrying hazardous cargo, critical infrastructure facilities and U.S. military vessels, at a high rate of speed and will facilitate law enforcement control of vessel movement.

The regulated navigation area is in the vicinity of Port Everglades Harbor, Fort Lauderdale, Florida, and includes all waters of the Atlantic Intracoastal Waterway and Port Everglades Harbor, from shore to shore, south of the 17th Street Bridge (at a line connecting 26°06.04′N, 080°07.17′W and 26°06.04′N, 080°07.05′W), north of the intersection of the Dania Cut Off Canal and the Intracoastal Waterway (latitude 26° 04.72′N) and west of a north-south line connecting red day board # 6 and green day board #7 at the entrance to Port Everglades Harbor (longitude 080°06.30′W).

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The regulated navigation area is narrowly tailored to protect the public, ports, and waterways of the United States, and watercraft are still permitted to transit through the regulated navigation area but must proceed at slow speed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact upon a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The regulated navigation area is narrowly tailored to protect the public, ports, and waterways of the United States, and vessels are still permitted to transit through the regulated navigation area but must proceed at slow speed.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Jennifer Sadowski at (305) 535–8701 for assistance in understanding and participating in this rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add temporary § 165.T07–069 to read as follows:

§ 165.T07–069 Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, Florida.

(a) *Location.* The following area in the vicinity of Port Everglades Harbor is a regulated navigation area: all waters of the Atlantic Intracoastal Waterway and Port Everglades Harbor, from shore to shore, south of the 17th Street Bridge (at a line connecting 26° 06.04′N, 080°07.17′W and 26°06.04′N, 080°07.05′W), north of the intersection of the Dania Cut Off Canal and the Intracoastal Waterway (latitude 26° 04.72′N) and west of a north-south line connecting red day board #6 and green day board #7 at the entrance to Port Everglades Harbor (longitude 080° 06.30′W).

(b) *Regulations.* Vessels entering and transiting through the regulated navigation area shall proceed at a slow speed. Nothing in this section alleviates vessels or operators from complying with all state and local laws in the area, including manatee slow speed zones.

(c) *Definition.* As used in this section, *slow speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A vessel is not proceeding at slow speed if it is:

(1) On a plane;

(2) In the process of coming up on or coming off of plane; or

(3) Creating an excessive wake.

(d) *Effective period.* This rule is effective from 12:01 a.m. on Monday, April 28, 2003, until 12:01 a.m. on Monday, September 1, 2003.

Dated: April 25, 2003.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 03–11811 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 03–004]

RIN 1625–AA00

Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. This temporary safety zone is necessary to protect persons and vessels from hazards associated with bridge construction activities. The safety zone will temporarily prohibit usage of the Mission Creek Waterway surrounding the Fourth Street Bridge; specifically, no persons or vessels will be permitted to come within 100 yards of either side of the bridge or pass beneath the bridge during construction, unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [COTP San Francisco Bay 03–004] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Diana J. Cranston, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 19, 2003, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California in the **Federal Register** (68 FR 13244). The effective date for the safety zone for the first phase of this project was published as commencing on April 15, 2003, and lasting for 6 weeks. Due to a project delay, the safety zone for the first phase of this project will now commence on May 1, 2003, lasting for an 8-week period. The second

phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period. Both periods will be enforced 24 hours a day. We received one letter commenting on the rule which will be discussed further in the section of Discussion of Comments and Changes. No public hearing was requested, and none was held. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Details regarding this project were not finalized in time to allow for this rule to be published a full 30 days prior to making this rule effective. The rulemaking process began in March 2003 which allowed enough time to publish an NPRM and allow for a public comment period. Accordingly, since timely rehabilitation to the bridge (as discussed in the Background and Purpose section) is crucial to the safety of this bridge, the channel closures must begin on May 1, 2003, less than 30 days after the publication of this rule.

Background and Purpose

The San Francisco Department of Public Works requested a waterway closure on Mission Creek for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. In view of extensive corrosion to the steel components and concrete approaches of the bridge, Caltrans has also placed traffic load limitations over this bridge. Three primary objectives are to be met in rehabilitating the Fourth Street Bridge: (i) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (ii) Repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (iii) Reinitiate light rail service across the bridge.

The first phase of this project will entail the removal of the lift span, which will take approximately 8 weeks, scheduled to begin May 1, 2003. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic. The second phase of this project will entail the construction of the north and south approaches, the new counterweight and its enclosing pit; but for the most part, boating traffic will not be affected during this phase. The last phase of this project will entail the replacement of the lift span and aligning the bridge to accept the light rail track system, which will take approximately five months, scheduled to begin April 1, 2004. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic.

The Fourth Street Bridge Project is funded by Federal Highway Administration and State of California. The state funding restricts the construction to a start date before August 2003 and completion by September 2005. Any delays or deferrals in construction will impact the secured funding for the project.

There are two major environmental issues that restricts the construction in the channel, namely the annual pacific hearing-spawning season that runs from December 1st to March 31st and noise constraint in the water for steelhead from December 1st to June 1st. Any demolition, pile driving and excavation in the water during those time periods will be monitored and restricted for possible impact on the fish.

The Fourth Street Bridge Project is part of the larger Third Street Light Rail Project and many public presentations on the project's components, channel closure schedules, impacts to surrounding uses and project duration have been made by the City and Port of San Francisco. The Third Street Light Rail Advisory Group was created as a forum to keep the public informed on the progress being made on the Third Street Light rail project. Also, this project has been presented at several Mission Bay Citizen Advisory Committee meetings. At these meetings, the public was notified of the project components, impacts and the need to temporarily close the waterway. Specific to the Fourth Street Bridge project, an Environmental Assessment, required by the Federal Highway Administration and Caltrans, (under the National Environmental Protection Act) was conducted by the City of San Francisco. A public hearing regarding the Environmental Assessment was held on January 17, 2002 at San Francisco Arts College, Timken Lecture Hall, 1111 8th Street in San Francisco California, and was well attended.

In January 2003, the City of San Francisco advised the Coast Guard Captain of the Port that two channel closures would be necessary in order to accomplish the Fourth Street Bridge project. The Coast Guard met with various City and Port officials to ensure that there would be minimal impacts on involved and potentially involved entities.

This temporary safety zone in the navigable waters of Mission Creek surrounding the construction site of the Fourth Street Bridge will be enforced during the course of an 8-week period, starting May 1, 2003 and again for a 5-month period, starting April 1, 2004.

Discussion of Comments and Changes

We received one letter commenting on this rule. The Mission Creek Harbor Association, an organization of boaters that have both permanent and temporary moorings at Mission Creek Harbor, are in favor of the first closure as it is relatively short in duration and all affected boaters have been provided alternate moorings outside of the affected closure area by the city. The association is concerned about the second closure that will commence on April 1, 2004 and last for 5 months. This closure is much longer than the first closure and will last the full duration of the boating season in 2004. The Mission Creek Harbor Association and city officials have resolved their issue for the first closure and they are currently working on resolving this issue for the closure in 2004. The Mission Creek Harbor Association is pleased with this form of resolution and understands that no changes will be made to this rule as a result of their comments.

A discussed before, a minor change to the effective date for the safety zone has changed since the NPRM was published on March 19, 2003, entitled ''Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA'' in the **Federal Register** (68 FR 13244). The first phase of this project was published as commencing on April 15, 2003, and lasting for 6 weeks. Due to a project delay, the safety zone for the first phase of this project will now commence on May 1, 2003, lasting for an 8-week period. The second phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this safety zone does restrict boating traffic past the fourth street bridge, the effect of this regulation will not be significant as this waterway is very small with limited boating traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

This safety zone will not have a significant impact on a substantial number of small entities for the following reasons. Although the channel closure will restrict water access to a small number of boats, including houseboats who have moorings in Mission Creek Harbor, the channel closure will not impact land access to these houseboats during the bridge closures. The City of San Francisco, Department of Public Works and the Port of San Francisco have been in close consultation with the Mission Creek Harbor Association to assist boat owners affected by this project. As a result, the Mission Creek Harbor Association has a lease agreement with the Port of San Francisco for both houseboats and pleasure boats to moor outside of the affected closure area for the duration of the first channel closure that commences on May 1, 2003. Similar resolutions are being discussed for the second closure that is scheduled to commence on April 1, 2004.

Assistance For Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a safety zone.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004 add a new temporary § 165.T11–079 to read as follows:

§ 165.T11–079 Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California.

(a) *Location.* One hundred yards to either side of the Fourth Street Bridge, encompassing the navigable waters, from the surface to the bottom, within two lines; one line drawn from a point on the north shore of Mission Creek [37°46′29″ N, 122°23′36″ W] extending southeast to a point on the opposite shore [37°46′28″ N, 122°23′34″ W], and the other line drawn from a point on the north shore of Mission Creek [37°46′34″ N, 122°23′30″ W] extending southeast to a point on the opposite shore [37°46′33″ N, 122°23′28″ W]. [Datum: NAD 83].

(b) *Dates.* (1) This section is effective from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004.

(2) The zone in paragraph (a) of this section will be enforced from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on June 28, 2003, and from 1 a.m. (PST) on April 1, 2004 to 1 a.m. (PDT) on September 1, 2004.

(3) If the need for enforcement of the safety zone ends, the Captain of the Port may cease enforcement of the safety zone and announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or a designated representative thereof.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and Federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 25, 2003.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 03–11809 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 2

RIN 2900–AL61

Delegations of Authority; Office of Regulation Policy and Management (ORPM)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document sets forth a delegation of authority to the Assistant to the Secretary for Regulation Policy and Management to manage and coordinate the Department of Veterans Affairs' (VA) rulemaking process. The delegation is necessary to transfer certain rulemaking responsibilities to the newly-formed Office of Regulation Policy and Management in the Office of the Secretary. The delegation of authority is intended to improve the organization, clarity, and timeliness of VA regulations through centralized management and control. This document also makes minor technical amendments to a current delegation of authority that concerns the provision of relief on account of administrative error.

DATES: *Effective Date:* May 13, 2003.

FOR FURTHER INFORMATION CONTACT: Robert C. McFetridge, Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420 telephone (202) 273–9215.

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management (ORPM) to provide centralized management and coordination of the Department of Veterans Affairs' (VA) rulemaking process. The office is led by an Assistant to the Secretary for Regulation Policy and Management (ASRPM), who is responsible for improving existing VA regulations and establishing procedures to ensure future regulations can be more easily read, understood, and applied. The delegation of authority contained in this final rule will permit the ASRPM to manage and coordinate the VA's rulemaking process.

The ASRPM is performing two major functions for the Department. First, he is leading the VA's Regulation Rewrite Project. The Regulation Rewrite Project (the Project) is a comprehensive effort to improve the clarity and consistency of existing VA regulations. Currently, the Project is reviewing, reorganizing, and redrafting over 275 regulations in 38 CFR Part 3. These Compensation and Pension regulations are among the most difficult VA regulations for readers to understand and apply. Approximately 15 VA employees, temporarily detailed to the Project from the Office of General Counsel; Veterans Benefits Administration, Compensation and Pension Service; and Board of Veterans Appeals, are working in rotating teams seeking to complete this assignment over a 2-year period. The Secretary created the Project to respond to the Secretary's VA Claims Processing Task Force (Task Force) recommendation that Compensation and Pension regulations needed to be rewritten and reorganized in order to improve the VA's claims process. The Task Force found that ''the problems identified 20 years ago remain today, and the promise to correct them is unfulfilled.'' The Task Force further recommended that the task of reorganizing and simplifying VA regulations ''should be an immediate priority.'' Consequently, the Secretary is delegating responsibility to the ASRPM to manage the Department's revision and reorganization of VA regulations.

Second, the ASRPM is responsible for devising and implementing new procedures to centralize control and improve Secretarial oversight, management, drafting efficiency, policy resolution, impact analysis, and coordination of diverse VA regulations. In the past, VA rulemaking procedures have varied among the Department's three major administrations, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration, and among the Department's staff offices. The Secretary approved the creation of ORPM to serve as the centralized rulemaking policy and management structure in the Office of the Secretary. In this document, the Secretary is delegating authority to the ASRPM to manage and coordinate the Department's rulemaking activities.

As an Assistant to the Secretary, the ASRPM will help the Secretary integrate and resolve significant policy issues affecting VA regulations early in the drafting process. The ASRPM will serve as the Executive Secretary to the Secretary's Regulatory Policy Council (the Council), which will ensure that the Department's rulemaking proposals support the Secretary's priorities for assisting America's veterans. The Council will consist of the Secretary, the

Deputy Secretary, the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, and other senior officials who will serve as advisory members on an ad hoc basis when necessary to address specific issues.

The Secretary also is designating the ASRPM as the Department's Regulatory Policy Officer in accordance with Executive Order 12866. Section 6(a) of the Executive Order requires Federal agencies to designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer is to be involved in each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in the Executive Order. With the establishment of ORPM, the ASRPM is assuming those responsibilities from the General Counsel.

This document also makes minor technical amendments to 38 CFR 2.7, which is a delegation of authority that concerns the provision of relief on account of administrative error.

Administrative Procedure Act

This document is being published as a final rule pursuant to 5 U.S.C. 553, which excepts matters pertaining to internal agency management and personnel from its notice, comment, and delayed effective date requirements.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This final rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603–604.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for this rule.

List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: May 2, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, unless otherwise noted.

■ 2. Section 2.6 is amended by adding paragraph (l) and an authority citation at the end of the section to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(l) *Assistant to the Secretary, Office of Regulation Policy and Management.* The Assistant to the Secretary for Regulation Policy and Management (ASRPM) is delegated authority:

(1) To act on all matters assigned to the Office of Regulation Policy and Management, except such matters as require the personal attention or action of the Secretary or the Secretary's Regulatory Policy Council.

(2) To manage and coordinate the Department's rulemaking activities, including the revision and reorganization of regulations.

(3) To serve as the Regulatory Policy Officer for the Department's rulemaking activities in accordance with Executive Order 12866.

(Authority: 38 U.S.C. 501, 512)

■ 3. Section 2.7 is amended by:

■ A. In the first sentence of paragraph (b), removing ''210(c)(3)'' and adding, in its place, ''503(b)'' and removing ''widow'' and adding, in its place, ''surviving spouse''.

■ B. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 2.7 Delegation of authority to provide relief on account of administrative error.

* * * * *

(Authority: 38 U.S.C. 503, 512)

[FR Doc. 03–11844 Filed 5–12–03; 8:45 am]

BILLING CODE 8320–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL 184–1a; FRL–7481–3]

Approval and Promulgation of Implementation Plan; Illinois New Source Review Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a requested revision to the Illinois State Implementation Plan (SIP), affecting air permit rules, submitted on August 31, 1998. The submittal revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA).

DATES: This rule is effective on July 14, 2003, without further notice, unless EPA receives written adverse comments by June 12, 2003. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the proposed approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time to inspect the submittal.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353–3214, E-Mail Address: *marquardt.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: This section addresses the following questions:

What does this document address?
What is the legal basis of the changes that EPA is approving?
What is the impact of these changes on the Emission Reductions Market System (ERMS)?
What is involved in this final action?

What Does This Document Address?

Illinois' rules for nonattainment New Source Review (NSR), 35 Ill. Adm. Code 203, are designed to ensure that the

construction of a major new source of air pollution or a large increase of emissions at an existing source does not interfere with the attainment demonstration and does not delay timely achievement of the ambient air quality standards. There are four substantive requirements imposed upon owners or operators of major projects, as set forth in part 203. The first of these is the imposition of Lowest Achievable Emission Rate (LAER) or for certain existing sources, Best Available Control Technology (BACT) on emissions of the nonattainment pollutant from the major project. Appropriate limits are established on a case by case basis in the permitting process. The second requirement is that the emissions of the nonattainment pollutant from a major project must be accompanied by emission offsets from other sources in the nonattainment area. This assures that the total emissions of the nonattainment pollutant will remain within the levels accommodated by the State's attainment demonstration. The third requirement is compliance by other sources in the State which are under common ownership or control with the person proposing the project. The final requirement is an analysis of alternatives to the particular project, to determine whether the benefits of the project outweigh the environmental and social costs.

The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7), and (8) of the CAA, and to make other revisions consistent with this effort. These changes deal with how one determines whether a proposed change at a source is a major modification. Tracking the language of these sections more closely allows Illinois to better accommodate EPA guidance on interpretation of these provisions of the CAA. In particular, Illinois has amended part 203 so that it does not conflict with EPA's ''Notice of Proposed Rulemaking, Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR),'' 61 FR 38249 (July 23, 1996). One topic addressed by EPA in this 1996 proposed rulemaking was sections 182(c)(6), (7) and (8) of the CAA (61 FR 38298–38302).

When the EPA finalizes its NSR rulemaking establishing guidance on these sections of the CAA, Illinois' NSR rules will have to be reevaluated. The Illinois EPA has committed to undertaking such a review of Illinois' NSR rules upon final EPA NSR rulemaking (Illinois EPA comments filed to the Pollution Control Board, November 6, 1997).

What Is the Legal Basis of the Changes That EPA Is Approving?

The statutory basis for the changes to part 203 is sections 182(c)(6), (7) and (8) of the CAA. These provisions establish criteria for determining the applicability of nonattainment NSR for modifications in serious and severe ozone nonattainment areas.

The De Minimis Rule: Section 182(c)(6) of the CAA

The ''*de minimis* rule,'' section 182(c)(6) of the CAA, specifies the basic approach for determining whether proposed modifications in serious and severe ozone nonattainment areas are subject to nonattainment NSR. In these areas, the determination whether a project at a source is a major modification must consider other projects at the source over the last five calendar years. If the sum of the particular projects' emissions of an ozone precursor, (*e.g.*, volatile organic material), and increases and decreases in emissions from other ''contemporaneous'' projects is significant, *i.e.*, more than a ''*de minimis*'' threshold of 25 tons per year, the particular project is major and subject to the requirements of NSR. The State of Illinois has adopted this provision and is making no changes to it. (Refer to 35 Ill. Adm. Code 203.209(b)).

In addition, Illinois had adopted NSR rules that restricted the role of contemporaneous emission decreases at a source in certain circumstances. In particular, Illinois' NSR rules allowed applicability of NSR to be triggered for a discrete operation, unit or other pollutant emitting activity irrespective of decreases elsewhere at the source, if a proposed project would result in a significant increase in emissions at such operation or unit. For this purpose, other emission increases and decreases at the discrete operation or unit during the contemporaneous time period could be considered, but not decreases elsewhere at the source. As a result, projects with significant increases in emissions at individual units or operations could trigger nonattainment NSR even if the overall net change in emissions at a source was not significant. This was a consequence of Illinois' historic interpretation of the language of sections 182(c)(7) and (8) of the CAA.

The various amendments to 35 Ill. Adm. Code part 203, which EPA is approving, remove provisions that could trigger NSR applicability for individual units or operations in the manner explained above. The amendments also make related changes to the rules. These amendments allow Illinois to follow the proposed interpretation of section 182(c)(6), (7) and (8) of the CAA published by EPA in the **Federal Register** in July 1996. By making the language of 35 Ill. Adm. Code part 203 more consistent with the language of the CAA, Illinois can accommodate EPA's published interpretation. As stated above, the Illinois EPA has committed to reevaluate part 203 upon EPA finalization of its federal rules establishing guidance on these sections of the CAA.

Special Rules for Modifications: Sections 182(c)(7) and (8) of the CAA

Section 182(c)(7) and (8) of the CAA are the ''Special Rule for Modifications of Sources Emitting Less Than 100 Tons'' and the ''Special Rule for Modifications of Sources Emitting 100 Tons or More.'' These provisions contain additional applicability provisions for major modifications in serious and severe ozone nonattainment areas. In general, they provide that a discrete operation, unit, or other pollutant emitting activity at a source with a significant emission increase (*i.e.*, more than a *de minimis* increase) shall be considered a major modification unless the owner or operator of the source elects to offset the emissions from other operations, units, or activities within the source at an internal offset ratio of 1.3 to 1. If a source elects to provide internal offsets, a proposed modification may be excused from some or all of the NSR requirements. Illinois' NSR rules at 35 Ill. Adm. Code 203.207 and 203.301 generally provided and continue to provide the relief offered by sections 182(c)(7) and (8) of the CAA. However, as explained above, provisions were also included in Illinois' NSR rules that allowed a major modification to be triggered by proposed increases in emissions at an individual emission unit.

The interpretation of section 182(c)(7) and (8) of the CAA published by EPA in 1996 recognizes that a source may not have enough emissions decreases to internally ''net out'' an entire proposed modification to 25 tons or less so that the modification is *de minimis*. However, where a proposed modification involves more than one discrete unit, the source may have sufficient creditable internal decreases that could be applied at a 1.3 to 1 offset ratio against the emissions increase at particular units. In such circumstances, sections 182(c)(7) and (8) of the CAA function to allow a source to use creditable internal decreases that are

insufficient to avoid nonattainment NSR for an entire project to still avoid NSR requirements for certain units involved in a major modification. Illinois has made changes to its NSR rules so as to be able to follow this interpretation.

Review of Individual Amendments to Illinois' NSR Rules

The first change made by Illinois was to revise 35 Ill. Adm. Code 203.207(d), the applicability criteria for major modifications in serious and severe ozone nonattainment areas. The amendment better follows the wording of section 182(c)(6) of the CAA. Accordingly, 35 Ill. Adm. Code 203.207(d) no longer provides that changes at a discrete operation or unit can be subject to NSR when the source as a whole would not experience a *de minimis* increase in emissions as a result of the proposed modification.

A related change was made to 35 Ill. Adm. Code 203.206(d), a provision in the applicability criteria for major sources dealing with reconstruction of a source. Illinois deleted this provision, which allowed reconstruction of a source to be treated as a major new source. This provision applied in Illinois when changes at an individual operation or unit could trigger nonattainment NSR independent of emission decreases elsewhere at the source. This provision is no longer considered relevant by Illinois under the amended NSR rules with source-wide netting of contemporaneous emissions increases and decreases available to determine whether a proposed project would be a major modification.

Illinois also made a related change to 35 Ill. Adm. Code 203.207(c)(1), in the applicability criteria for major modifications. Illinois deleted the specific exclusion for replacements since the term reconstruction was no longer available to govern this exclusion.

Illinois added 35 Ill. Adm. Code 203.207(e) and revised 35 Ill. Adm. Code 203.301(e) to better follow the language of section 182(c)(7) of the CAA, the ''Special Rule for Modifications of Sources Emitting Less Than 100 Tons.'' As allowed by this special rule for modifications at smaller sources, Illinois' NSR rules do not apply the requirements of nonattainment NSR to a discrete operation or unit involved in a major modification for which the source elects and is able to provide internal offsets at a ratio of 1.3 to 1. In addition, major modifications at these smaller major sources are only required to comply with Best Available Control Technology, rather than the Lowest Achievable Emission Rate.

Finally, Illinois added 35 Ill. Adm. Code 203.301(f), replacing previous 35 Ill. Adm. Code 203.301(e)(2), to better follow the language of section 182(c)(8) of the CAA, the ''Special Rule for Modifications of Sources Emitting 100 Tons or More.'' As allowed by this special rule, for modifications at larger major sources, Illinois' NSR rules do not apply the LAER requirement of nonattainment NSR to a discrete operation or unit involved in a major modification for which the source elects and is able to provide internal offsets at a ratio of 1.3 to 1.

What Is the Impact of These Changes on the Emissions Reductions Market System (ERMS)?

The ERMS, which is codified in 35 Ill. Adm. Code Part 205, is a program adopted by Illinois for the Northeastern Illinois ozone nonattainment area to reduce emissions of volatile organic material (VOM) from major stationary sources. Illinois' amendments to 35 Ill. Adm. Code 203 may have an effect on the calculation of certain sources' baselines and allocations of allotment trading units (ATUs) under the ERMS. ERMS required subject sources to determine their baseline levels of volatile organic material emissions. Generally, sources receive annual allotments of ATUs equivalent to their baseline emissions less 12%. At the end of each calendar year, sources ''turn in'' ATUs in an amount not less that their volatile organic material emissions during the preceding ozone season. When a sources' emissions exceed its allotment of ATUs, the source must buy ATUs from other sources that have been able to reduce their emissions below their allotments.

Under the amendments to 35 Ill. Adm. Code 203, a source that has a modification to a discrete unit would have the option to net out on a source-wide basis which would mean that the modification would not be subject to requirements of NSR. This would allow sources to potentially have a larger baseline under ERMS because they are now subject to less stringent requirements pursuant to nonattainment NSR.

This final rule is not anticipated to significantly effect the ERMS baselines that have already been set. Those baselines were set generally using the average of the two seasonal allotments periods with the highest VOM emissions during 1994, 1995, and 1996. The sources that set their baselines under this requirement did so prior to the approval of this rule change and were processed according to the rules that applied at that time. Any change requested by a source to its baseline would entail a significant revision to the source's CAAPP permit and can be evaluated on an individual basis.

What Is Involved in This Final Action?

EPA is approving a requested revision to Illinois SIP affecting the nonattainment NSR rules at 35 Ill. Adm. Code 203, submitted on August 31, 1998. The amendments to 35 Ill. Adm. Code 203 are intended to better track the language of sections 182(c)(6), (7) and (8) of the CAA, and to make other revisions consistent with this effort. Tracking of these sections more closely allows Illinois to accommodate EPA guidance these provisions of the CAA.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 2, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(167) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(167) On August 31, 1998, Illinois submitted revisions to its major stationary sources construction and modification rules (NSR Rules) as a State Implementation Plan revision request. These revisions apply only in areas in Illinois that have been designated as being in serious or severe nonattainment with the national ambient air quality standards for ozone.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter A: Permits and General Provisions, Part 203 Major Stationary Sources Construction and Modification, Subpart B: Major Stationary Sources in Nonattainment Areas, Section 203.206 Major Stationary Source and Section 203.207 Major Modification of a Source; and, Subpart C: Requirements for Major Stationary Sources in Nonattainment Areas, Section 203.301 Lowest Achievable Emissions Rate. Amended in R98–10 at 22 Ill. Reg. 5674, effective March 10, 1998.

[FR Doc. 03–11749 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–7497–4]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Federal Operating Permits Program under title V of the Clean Air Act (Act) to extend the date by which State-exempt major agricultural sources in California must pay fees and to allow their permit applications to be considered complete even though fees may not have been paid on or before the date that applications are due. This action allows EPA to process the applications and issue permits while the Agency computes a fee amount based on the cost of administering the permits program for these sources. The amendments extend the due date for submitting operating permit fees to EPA until May 14, 2004, for agricultural sources that are major sources subject to title V but are not being permitted by 35 local air districts in the State of California. We are issuing the amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments.

DATES: This direct final rule will be effective on June 27, 2003 unless significant adverse comments are received by June 12, 2003. If significant adverse comments are received, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0047. By hand delivery/courier, comments may be submitted to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OAR–2003–00047.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. Candace Carraway, U.S. EPA, Information Transfer and Program

Implementation Division, C304–04, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3189, facsimile number (919) 541–5509, electronic mail address: *carraway.candace@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document, ''we,'' ''us,'' or ''our'' means EPA.

Regulated Entities

Categories and entities potentially affected by this action include agricultural sources that are major sources subject to title V but are not being permitted by any of the following 35 local air districts in the State of California: Amador County Air Pollution Control District (APCD), Antelope Valley APCD, Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

Direct Final Rule

We are publishing this direct final rule without prior proposal because we view this as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rule section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket

EPA has established an official public docket for this action under Docket ID No. OAR–2003–0047. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include confidential business information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document. Once in the system, select ''search,'' then key in the appropriate docket identification number.

World Wide Web (WWW)

After signature, the final rule will be posted on the policy and guidance page for newly proposed or final rules of EPA's Technology Transfer Network (TTN) at *http://www.epa.gov/ttn/oarpg/t5.html*. For more information, call the TTN Help line at (919) 541–5384.

Outline

The contents of the preamble are listed in the following outline:

I. Background

Title V of the Clean Air Act (Act) requires all State permitting authorities to develop operating permits programs that meet certain Federal criteria codified at 40 CFR part 70. Pursuant to title V, EPA promulgated final regulations at 40 CFR part 71 to establish EPA's program for issuing Federal operating permits to sources located in areas lacking an EPA-approved or adequately administered operating permits program. See 61 FR 34202 (July 1, 1996).

On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. See 66 FR 63503 (December 7, 2001).[1] Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code which precluded local districts from requiring title V permits for major agricultural sources. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

We partially withdrew approval of the title V programs for the 34 local air districts listed above and began administering the part 71 program for the State-exempt agricultural sources (herein also referred to as ''agricultural sources'') located in the 34 local air districts on November 14, 2002.[2] See 67 FR 63551 (October 15, 2002). Consistent with the settlement agreement and our final rule for these 34 districts, State-

[1] Antelope Valley APCD was not included in our final action because its initial interim approval status, granted on December 19, 2000(65 FR 79314), had not yet expired. On January 21, 2003, however, Antelope Valley's interim approval status expired.

[2] ''State-exempt agricultural source'' refers to those stationary agricultural sources in California that are presently exempt from all air permitting requirements under California Health and Safety Code 42310(e).

exempt major agricultural sources subject to the part 71 program due to diesel engine emissions must submit their permit applications by May 14, 2003, while all other major stationary agricultural sources must submit part 71 applications to EPA no later than August 1, 2003. On January 21, 2003, EPA began implementation of the part 71 program for major stationary sources in the Antelope Valley APCD as a result of the expiration of the program's interim approval.

II. Revisions to the Fee Payment Requirements

Part 71 requires that permit applicants submit permit fees with their applications in order for the application to be deemed complete. See § 71.5(a)(2). If a source fails to submit a timely and complete application, it may be subject to an enforcement action for operating without a permit. See § 71.7(b). Also, a source that fails to submit fees within 30 days of the due date is subject to a 50 percent penalty. See § 71.9(l)(2).

We are deferring the fee payment due date for State-exempt agricultural sources in California that are subject to the part 71 program because we believe the standard part 71 fee may significantly exceed the actual cost of administering a program for agricultural sources, and we do not have the information to complete a rulemaking to establish a different fee prior to the May 14, 2003, application deadline. The part 71 fee schedule in § 71.9(c) is designed to cover the cost of permitting more complex, industrial sources. We need additional time to evaluate the likely costs of permitting the State-exempt agricultural sources. Also, as we gain experience with the program, we will be in a better position to establish a cost-based fee. For these reasons, we are amending § 71.9(f) to extend the due date for permit fees for State-exempt agricultural sources until May 14, 2004. Unless we set a different fee amount through rulemaking before that extended date, the fee schedule in § 71.9(c)(1) would apply.

At this time the Agency has no experience with or data on the cost of permitting agricultural sources, but we expect that agricultural sources will have fewer applicable requirements and associated monitoring requirements, and they will require simpler permits than do most industrial sources. One key difference, for example, is that no State-exempt agricultural source has been issued a permit to construct emission sources associated with its agricultural operation, whereas most, if not all, nonagricultural major stationary sources of air pollution in the State have been issued preconstruction permits. Requirements and conditions in preconstruction permits are applicable requirements that must be folded into a title V permit. In addition, State implementation plan-approved stationary source prohibitory rule requirements are mostly directed at nonagricultural operations. Similarly, few, if any, State-exempt agricultural sources would be subject to maximum achievable control technology standards. For an example of the type and complexity of nonagricultural title V permits, please see certain district permits posted on the California Air Resources Board webpage at: *http://www.arb.ca.gov/fcaa/tv/tvinfo/permits/permits.htm.*

Based on this difference in the number of applicable requirements, we believe that at every stage of the permit process, permitting agricultural sources will on average be less complex and time consuming than permitting industrial sources. For agricultural sources, the technical review of the application will be less time consuming because it will be easier to determine if all the applicable requirements are referenced in the application. Similarly, it will be easier to determine whether the source is in compliance with all of its applicable requirements and whether a compliance schedule needs to be developed in the permit. Permits that have fewer applicable requirements will require less time to develop with respect to monitoring issues which typically involves a review of the monitoring proposed by the permit applicant for each applicable requirement and a justification in the permit's statement of basis for the monitoring required in the permit. There will be fewer recordkeeping and reporting requirements tied to applicable requirements to include in the permits. Finally, because there are fewer applicable requirements and reports required by the permit, these permits should be easier for EPA to implement and enforce compared to the typical industrial source permit.

EPA also expects to develop some general permits for some State-exempt agricultural sources which would be less resource intensive to develop and implement than permits that are issued on a case-by-case basis. Although EPA has not issued any general permits, we estimate that it takes on average 328 hours to develop and issue an individual permit and 80 hours to develop and issue a general permit that would apply to many sources. See Information Collection Request for Part 70 Operating Permit Regulations, EPA Number 1587.05. One reason for the difference in the estimates is that general permits are only appropriate for less complex sources with few applicable requirements.

Once a general permit is developed, EPA would not make individual judgements relative to the permit terms for the sources covered by the permit. The monitoring, recordkeeping, and reporting requirements of the general permit would not vary from source to source. Once the general permit has been issued after an opportunity for public participation and affected State review, EPA may grant or deny a source's request to be covered by a general permit without further public participation or affected State review. Thus, EPA would bear the cost of one public hearing at most on the permit, as opposed to the individual public hearings that can be requested for permits that are developed individually.

Once we have determined where it is appropriate to develop general permits, we will be in a position to add those costs to other data on the cost of implementing the program for agricultural sources.

In order to implement the later fee payment due date, we are also amending § 71.9(f) to remove the requirement that fees be paid at the time of the permit application in order for the applications from State-exempt agricultural sources to be considered complete.

Absent these amendments, State-exempt agricultural sources would have been required to pay fees that may substantially exceed the cost of administering the part 71 program or become subject to enforcement actions for operating without a title V permit and for failure to pay fees.

III. Direct Final Rule

EPA believes this direct final rule is necessary because the standard part 71 fee that is based on costs of permitting industrial sources may substantially exceed the cost of permitting the simpler agricultural sources, and many of these sources must submit applications and fees by May 14, 2003. Even with a direct final rulemaking, this rule will not be effective by the date permit applications are due for certain agricultural sources. Thus, applications submitted on May 14, 2003, without a payment of fees will be temporarily incomplete while this rulemaking is conducted. Once this rulemaking is completed and effective, however, applications otherwise meeting the requirements of part 71 that are submitted without fees can be deemed complete without further action by the applicant.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more, adversely affecting in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Under Executive Order 12866, EPA has determined that this direct final rule is not a ''significant regulatory action'' because it simply defers, rather than imposes, one regulatory requirement and raises no novel legal or policy issues. Therefore, this action is not subject to OMB review.

B. Paperwork Reduction Act

This direct final rule does not impose any new information collection burden. The action merely defers the fee payment deadline for certain agricultural sources that are subject to the action. However, OMB has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 71, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0336 (EPA ICR No. 1713.04). Burden means the total time, effort, or financial resources expended by person to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business that meets the Small Business Administration size standards for small businesses found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, country, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments in today's final rule would merely defer the deadline for paying permit fees for sources affected by the final rule, thereby giving them more flexibility and reducing the burden on these sources. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply where they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA)for State, local, or tribal governments, or the private sector. Today's direct final rule imposes no enforceable duty on any State, local, or tribal governments and merely defers the payment of permit fees for certain permit applicants. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, today's action is not

subject to sections 202 and 205 of the UMRA.

In addition, EPA has determined that this direct final contains no regulatory requirements that might significantly or uniquely affect small governments because it imposes no new requirements and imposes no additional obligations beyond those of existing regulations. Therefore, today's direct final rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government.''

This direct final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule will not impose any new requirements but rather will defer payment of fees for certain permit applicants. Accordingly, it will not alter the overall relationship or distribution of powers between governments for part 71 operating permits programs. Thus, Executive Order 13132 does not apply to this direct final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This direct final rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action does not significantly or uniquely affect the communities of Indian tribal governments. As discussed above, today's action imposes no new requirements and merely defers fee payment for certain permit applicants. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines is (1) ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risk such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This direct final rule is not subject to Executive Order 13045 because it is not ''economically significant'' under Executive Order 12866, and it does not establish an environmental standard intended to mitigate health and safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The NTTAA does not apply to this direct final rule because it does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on June 27, 2003 unless significant adverse comments are received by June 12, 2003.

K. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 7, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Amended]

■ 2. Section 71.9 is amended by adding paragraph (f)(5) to read as follows:

§ 71.9 Permit fees.

* * * * *

(f) * * *

(5) Notwithstanding the above and § 71.5(a)(2), initial fee payments for sources that are subject to the part 71 program for State-exempt agricultural sources in California local air districts are due on May 14, 2004. Before May 14, 2004, initial applications from these sources that are timely and otherwise complete shall not be deemed incomplete due to the fact that fees are not submitted with the applications.

* * * * *

[FR Doc. 03–11910 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 73, 74, 80, 90, and 97

[ET Docket No. 02–16; FCC 03–39]

Below 28 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules to implement domestically various allocation decisions from International Telecommunication Union (''ITU'') World Radiocommunication Conferences concerning the frequency bands below 28 MHz. The rules update the Commission's rules so they are more consistent with international regulations, update various rule parts to affect the allocation changes, and update rules that were not recently reviewed.

DATES: Effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Shameeka Parrott, Office of Engineering and Technology, (202) 418–2062, email: *sparrott@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 02–16, FCC 03–39, adopted February 25, 2003, and released March 3, 2003. The full text of this Commission decision is available on the Commission's Internet site at *www.fcc.gov.* It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, Room CY–B402, 445 12th Street, SW., Washington, DC 20554. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Report and Order

1. In the *Report and Order,* the Commission amended parts 2, 73, 74, 80, 90, and 97 of the Commission's rules to implement domestically various allocation decisions from ITU World Radiocommunication Conferences concerning the frequency bands below 28 MHz.

2. *International Broadcast Frequencies.* The Commission found that implementing allocation changes from World Administration Radiocommunication Conference (''WARC'') 1979 and WARC–92 concerning high frequency broadcast (''HFBC'') would significantly increase the amount of spectrum available for HFBC, and conform to international regulations. The Commission states that implementing these allocation changes would promote national interest around the world and increase the international communications provided by HFBC.

3. To provide more effective use of the WARC–79 HFBC bands, the Commission deleted the fixed service allocation from the WARC–79 bands to make these bands available exclusively to the broadcasting service. These bands are also added to the Commission's rules for international broadcast stations, which provide an additional 850 kilohertz of exclusive spectrum for international broadcasters. Federal government agencies are permitted to operate existing fixed stations in the bands 9775–9900 kHz, 11650–11700 kHz, and 11975–12050 kHz on a non-harmful interference basis to the international broadcast stations.

4. Until the transition of the WARC–92 HFBC bands to exclusive broadcasting service use becomes effective on April 1, 2007, the Commission allocated the 790 kilohertz of spectrum to the broadcasting service on a shared primary basis with existing fixed and mobile services. Consistent with changes being made to the allocation of the WARC–92 HFBC bands, the Commission ceased to issue licenses for new non-Federal government stations in the fixed and mobile services on April 1, 2001. The Commission added informational notes to part 80 (the maritime service rules) stating that radioprinter use of the bands 5900–5950 kHz and 7300–7350 kHz and Alaska private-fixed station use of the frequency 11601.5 kHz is on the condition that harmful interference is not caused to HFBC.

5. The Broadcasting Board of Governors (''BBG'') filed comment in reference to limiting WARC–92 HFBC bands to single-sideband (''SSB'') technology, which BBG believed would limit flexibility and increase costs. The Commission agreed with BBG that international broadcasters would not use SSB techniques because recent ITU studies demonstrated extremely limited availability of SSB receivers.

6. Finally, the Commission amended rules that would update the international broadcasting rules to reflect current practices and make them consistent with ITU *Radio Regulations.* The Commission revised the frequency tolerance of 0.0015 percent of the assigned frequency to the current ITU standard of 10 hertz in § 73.756(c). Given that there are few HFBC stations and many are non-profit, the Commission is grandfathering existing stations that do not meet this new standard. Also, the HFBC definitions in § 73.701 of the rules are revised to reflect international requirements as specified in the *WRC–97 Final Acts.* Currently, the band 25600–25670 kHz is used by radio astronomy service and not by HFBC stations. Therefore, the Commission deleted this band from the list of frequencies available to HFBC stations in part 73 of the rules. With the Commission's rules now agreeing with the ITU Table of Frequency Allocations, domestic radio astronomy observations are protected in this range. The Commission also clarified the manner in which the 7100–7300 kHz band is to be used by international broadcast stations by adding cross references to the rules, and replacing the target zone map in § 73.703 with the current ITU target zone map. Finally, the last sentence in § 73.766 is modified by changing the highest modulating frequency from 5 kilohertz to 4.5 kilohertz to reflect a long-standing international provision.

7. *AM Expanded Band.* The Commission found that the public interest would be served providing additional cleared spectrum in the band

1605–1705 kHz for the AM broadcast service to improve the technical integrity of the service and to remove conflicting regulations from the Commission's rules. Obsolete service rules and frequency references for parts 74 and 90 in this band are removed in order to prevent incompatible frequency authorizations. This decision followed the Commission's deletion of the land mobile allocation from the band 1605–1705 kHz in 1983, in which frequencies within this band were inadvertently left in parts 74 and 90 of the rules. Specifically, the Commission removed the frequencies 1606 kHz, 1622 kHz, and 1646 kHz from § 74.402(a)(1); the frequency 1630 kHz from § 90.20(c)(3); the frequencies 1614 kHz, 1628 kHz, 1652 kHz, 1676 kHz, and 1700 kHz from § 90.35 (b)(3); and the band 1605–1705 kHz from § 90.263. Consistent with removing frequencies 1606 kHz, 1622 kHz, and 1646 kHz from § 74.402(a)(1), the Commission also eliminated all reference to those frequencies from §§ 74.402(a) and 74.402(e)(1) and section 74.462(b). Also, mobile travelers' information stations (''TIS'') continue to be authorized throughout the AM Expanded Band as specified in part 90 and Federal government TIS stations operating on 1610 kHz have primary status.

8. With four Industrial/Business Pool and two non-Federal government radiolocation licensees operating in the AM Expanded Band, these licensees are permitted to continue operation on a non-interference basis to AM radio and TIS stations, until the end of their current license term with no provision for renewal. If an Industrial/Business Pool or radiolocation service operation is causing interference to either an AM radio or TIS station, they will have to immediately cease transmission. The Commission found that there is sufficient alternative spectrum to meet the needs of licensees affected by this change and the Commission's staff will work with those licensees to help them find suitable alternative channels if the licensee desires. Also, no application fee will be charged to licensees of affected stations that apply for a modification to obtain alternative channels before the end of their license term.

9. In order to protect the technical integrity of the AM Expanded Band, the Commission deleted from the U.S. Table the Federal government and non-Federal government secondary radiolocation allocation in the band 1605–1705 kHz. The Commission found that these radiolocation operations can be relocated to the band 1900–2000 kHz without significant impact to current operations. Consistent with this decision, the Commission removed the band 1605–1705 kHz from the Radiolocation Service Frequency Table in § 90.103 of the rules and deleted unneeded assignment limitations. The Commission had conversations with NTIA concerning the Federal government's radiolocation assignments in the sub-band 1615–1705 kHz. NTIA agreed to relocate all Federal government stations currently operating in the AM Expanded Band within one year of the adoption date of this Report and Order (February 25, 2004). In response to this, the Commission is allowing the Federal government radiolocation stations to continue to operate during this one-year transition period on the condition that harmful interference is not caused to AM or TIS stations.

10. *Continued Use of Frequencies by Broadcast Auxiliary Remote Pickup Stations.* The Commission is allowing broadcast auxiliary stations to continue using the band 26100–26175 kHz because use of this band by such stations is significant and their secondary status will ensure that their operation will not hinder public coast stations. A review of the Commission's licensing database showed that there were currently no public coast stations making use of the four maritime frequencies (26110 kHz, 26130 kHz, 26150 kHz, and 26170 kHz). Therefore, remote pickup stations will not impact maritime mobile operations and will allow for greater use of the radio spectrum.

11. *Maritime Services.* The band 285–325 kHz is allocated for use in the United States to the maritime radionavigation service on a primary basis, limited to radiobeacons. These operations were authorized by NTIA through footnote G121 of its Manual, but this footnote was not previously coordinated with the Commission. Since this spectrum is Federal government/non-Federal government shared spectrum and both entities benefit from the use of differential global positioning system (''DGPS'') systems, the Commission reclassified this footnote as a U.S. footnote.

12. The Commission adopted international footnote 5.131 domestically, authorizing NAVTEX systems to use the 4209.5 kHz frequency exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques. Since there are no incumbent users operating in this frequency, the United States Coast Guard (''USCG'') can operate NAVTEX with unencumbered access as a means to improving maritime safety broadcast service to mariners. Also, at the request of NTIA, the Commission adopted international footnote 5.79A domestically so that the operating characteristics of established stations in the NAVTEX service can be coordinated by the Federal government with other administrations consistent with the procedures of the International Maritime Organization.

13. After the ITU reduced the guard band for the distress and calling frequency at 500 kHz from 20 kilohertz to 10 kilohertz, the Commission deleted the 500 kHz from its maritime rules as a distress and safety frequency, but kept this frequency available for Morse radiotelegraph functions. At WRC–03 Member States will consider whether non-Global Maritime Distress and Safety System (''GMDSS'') requirements should be maintained in the ITU *Radio Regulations,* and until such time the Commission renumbered international footnote 472 as 5.83 in the U.S. Table. Also, until WRC–03 makes a decision, the Commission renumbered international footnotes 472a and 474 as 5.82 and 5.84, respectively, in the U.S. Table to reflect ITU changes.

14. Although, WARC–79 implementation transitioned the bands 4000–4063 kHz and 8100–8195 kHz to the maritime mobile service, these bands are equally or primarily used by the fixed service. Also, the ITU removed the resolution that facilitated the change of these bands to the maritime mobile service and its radio regulations maintain the fixed and maritime mobile service allocations in these bands on a co-primary basis. Therefore, the Commission removed US236 and reinstated the direct U.S. Table fixed service allocation for these bands on a primary basis to match the ITU table.

15. *Aeronautical Fixed Service.* In response to WRC–95, the Commission removed the limitation in footnote 459 on use of the 160–190 kHz band to aeronautical fixed use and allows all eligible fixed services to access this band. This brings our domestic rules in line with the ITU *Radio Regulations* and opens the band for utilization by other potential users. It is noted that the limitation only affects Region 2 polar areas and that Power Line Carrier (''PLC'') uses will be coordinated with fixed use of the band; therefore, the Commission found that lifting the aeronautical limitation will not harm the nation's power network.

16. The Federal Aviation Administration (''FAA'') indicated that they do not intend to implement an aircraft safety service in the band

21870–21924 kHz. Also, the Commission found no apparent domestic support for adopting international footnote 5.155B, which limits most fixed use of the band to the provision of services related to aircraft flight safety. Therefore, the Commission did not implement footnote 5.155B domestically, but maintains the footnote in the International Table for informational purposes.

17. *Amateur Service.* Because ITU Resolution No. 640 and international footnote 5.120 have been removed from the ITU *Radio Regulations,* the Commission removed footnote 5.120 and § 97.401(b) from the Commission's rules. The Commission did not think this would have an impact on the amateur stations to communicate with foreign stations in disaster areas, making the provisions based on the former ITU Resolution No. 640 unnecessary.

18. *Frequencies Available for Forest Products Licensees.* The Commission revised footnote US298 to agree with terminology now used in part 90 of the Commission's rules and added the frequencies indicated in the footnote to the Industrial/Business Radio Pool Frequency Table in § 90.35, with an appropriate note describing the limited use that is permitted. This decision does not change any regulatory requirements, but merely makes the Commission's rules easier to understand.

19. *Ministerial Conforming Actions.* The Commission made many non-substantive changes to update and correct the U.S. Table with regards to frequency allocations below 28 MHz, while the Commission also changed U.S. footnotes to conform to previous decisions and to update material in certain rule parts. These changes were made to remove unnecessary material from the Commission's rules and to reflect WRC–2000 Final Acts with regard to the International Table of Frequency Allocations within the Rules.

20. The Commission removed international footnote 5.60 from the bands 70–90 kHz and 110–130 kHz because this footnote addressed a limitation on an allocation that was never made domestically. Further, the Commission removed the superfluous international footnote 5.80 from the band 415–435 kHz because it addressed limitations that did not apply to this band. The Commission also removed the secondary direct U.S. Table allocation for the space research service in the band 19990–19995 kHz because this allocation was contained in footnote G106, which was recently added to the band 19990–20010 kHz. The Commission updated footnote US82 by removing maritime channels that were reallocated for other purposes in 1991, thus indicating clearly the channels that are available for ship and coast station operations.

21. Further, the Commission added an informational note to § 90.35 stating that the use of frequencies 25120 kHz, 25140 kHz, 25160 kHz, 25180 kHz, and 25200 kHz were on a secondary basis to stations in the maritime mobile service (part 80). In footnote US281, the Commission changed the band ''25.07–25.11 MHz'' to ''25070–25210 kHz'' and updated ''industrial radio service'' and ''Forest Products Radio Service'' to ''Industrial/Business Pool.'' Limitation 9 in 47 CFR 90.35 states this fact about footnote US281 and was added to the frequencies 25120 kHz, 25140 kHz, 25160 kHz, 25180 kHz, and 25200 kHz.

22. Additionally, the Commission updated rule part cross reference in the U.S. Table. Specifically, the Commission deleted approximately 50 cross references to the International Fixed Public Radiocommunication Services (''IFPRS'') that no longer existed. Finally, the Commission updated 18 international country footnotes for informational purposes because they did not apply to Region 2.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (''RFA''),[1] the Commission incorporated an Initial Regulatory Flexibility Analysis (''IRFA'') in the Notice of Proposed Rulemaking and Order (''*Notice*''), ET Docket No. 02–16.[2] The Commission sought written public comments on the proposals in the *Notice,* including the IRFA. The Final Regulatory Flexibility Analysis (''FRFA'') in the *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (''CWAAA''), Public Law 104–121, 110 Stat. 847 (1996).

By this action, the Commission reallocated 1640 kilohertz of spectrum from the fixed and mobile services to the broadcasting service. This action provides exclusive availability to broadcasting service in the HFBC bands. The Commission made consequential changes to various service rules that updated the rules for bands below 28000 kHz, so that they better comport with international regulations. Finally, this action clarifies the status of services in the AM Expanded Band (1605–1705 kHz).

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the action taken.[3] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[4] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (''SBA'').[6] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[7] Nationwide, as of 1992, there were approximately 275,801 small organizations.[8] Finally, ''small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.''[9]

Fixed Service. It is noted that there are 162 fixed assignments authorized under section 90.266 for long distance communications,[10] Alaska private-fixed assignments,[11] and 5 aeronautical fixed station assignments [12] that operate in the bands that were reallocated pursuant this Report and Order. Using the small business size standard, the Commission believed that most of the section 90.266 licensees are telephone, gas, and power companies that are not small businesses. Because the Commission estimated that most of these fixed service licensees would not qualify as small entities under the SBA definition, it is estimated

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.,* has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title I of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] *See Notice of Proposed Rule Making and Order,* 17 FCC Rcd 2789 (2002).

[3] 5 U.S.C. 603(b)(3).

[4] *Id.* 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[6] Small Business Act, 15 U.S.C. 632.

[7] 5 U.S.C. 601(4)

[8] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[9] 5 U.S.C. 601(5).

[10] 47 CFR 90.266.

[11] 47 CFR 80, subpart O—Alaska Fixed Stations.

[12] 47 CFR 87.275, 87.277, 87.279.

that fewer than 184 small entities will be impacted by the reallocation.

Maritime Service. The Commission noted that there are four public coast stations and four private coast stations licensees that operate in the bands being reallocated, and it is estimated that almost all of them qualify as small under the SBA size standard.

International Broadcast Stations. The transmissions of international broadcast stations are intended to be received directly by the general public in foreign countries.[13] There are 24 international broadcast licensees, and the Commission estimated that almost all of them qualify as small under the SBA size standards.

Private Land Mobile Radio Services. The Commission has not adopted a special small business size standard for private land mobile radio service licensees.[14] Therefore the size standards and census data small business breakouts are utilized. This means that such entities are considered small if they employ no more than 1,500 persons. There are 4 Industrial/Business Pool licensees and 2 radiolocation licensees in the AM Expanded Band, and the Commission believed that none of them qualify as small under the SBA size standards.

One significant alternative that the Commission considered was whether or not to allow the few high frequency broadcast (''HFBC'') stations, many of which are non-profit, a longer time to transition from outdated equipment. This transition relief will be necessary in instances in which equipment cannot maintain the stringent tolerance required by the amended rule. This Commission determined to grandfather existing international broadcast stations at their current frequency tolerance.[15] This will assist such non-profits, including small entities, by providing relief from the rule as revised. Also, with regard to small entities and others operating in the AM Expanded Band, Commission staff will work with affected licensees to help them find suitable alternative channels if the licensee desires.[16] No fee will be charged to licensees of affected stations that apply for modification for alternative channels before the end of their license term.

The Commission will send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to be sent to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Parts 2, 73, 74, 90, 97

Radio.

47 CFR Part 80

Alaska, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 73, 74, 80, 90, and 97 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Amend § 2.106 as follows:

■ a. Revise pages 1 through 21 of the Table.

■ b. In the list of International Footnotes in the Old Numbering Scheme, remove footnotes 459, 471, 472, 472A, 474, and 480.

■ c. In the list of United States Footnotes, revise footnotes US18, US25, US82, US104, US225, US231, US238, US281, US282, US283, US298, US321, US340, and US342. Remove footnotes US235 and US236. Add footnotes US364, US366, and US367.

The additions and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

[13] *See* 47 CFR 73.701.

[14] The service is defined in part 90 of the Commission's rules, 47 CFR 90.

[15] *See Report and Order* ¶ 15.

[16] *See Report and Order* ¶ 19.

0-130 kHz (VLF/LF) Page 1

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
Below 9 (Not Allocated) 5.53 5.54			Below 9 (Not Allocated) 5.53 5.54		
9-14 RADIONAVIGATION			9-14 RADIONAVIGATION US18 US294		
14-19.95 FIXED MARITIME MOBILE 5.57 5.55 5.56			14-19.95 FIXED MARITIME MOBILE 5.57 US294	14-19.95 Fixed US294	
19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz)			19.95-20.05 STANDARD FREQUENCY AND TIME SIGNAL (20 kHz) US294		
20.05-70 FIXED MARITIME MOBILE 5.57			20.05-59 FIXED MARITIME MOBILE 5.57 US294	20.05-59 FIXED US294	
			59-61 STANDARD FREQUENCY AND TIME SIGNAL (60 kHz) US294		
5.56 5.58			61-70 FIXED MARITIME MOBILE 5.57 US294	61-70 FIXED US294	
70-72 RADIONAVIGATION 5.60 5.56	70-90 FIXED MARITIME MOBILE 5.57 MARITIME RADIONAVIGATION 5.60 Radiolocation	70-72 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59	70-90 FIXED MARITIME MOBILE 5.57 Radiolocation	70-90 FIXED Radiolocation	Private Land Mobile (90)
72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60 5.56		72-84 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60			

84-86 RADIONAVIGATION 5.60		84-86 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.57 5.59			
86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.56	5.61	86-90 FIXED MARITIME MOBILE 5.57 RADIONAVIGATION 5.60	US294	US294	
90-110 RADIONAVIGATION 5.62 Fixed 5.64			90-110 RADIONAVIGATION 5.62 US18 US104 US294		Aviation (87) Private Land Mobile (90)
110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	110-130 FIXED MARITIME MOBILE MARITIME RADIONAVIGATION 5.60 Radiolocation	110-112 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64	110-130 FIXED MARITIME MOBILE Radiolocation		Maritime (80) Private Land Mobile (90)
112-115 RADIONAVIGATION 5.60		112-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile			
115-117.6 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.66		5.64 5.65			
117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64		117.6-126 FIXED MARITIME MOBILE RADIONAVIGATION 5.60 5.64			
126-129 RADIONAVIGATION 5.60		126-129 RADIONAVIGATION 5.60 Fixed Maritime mobile 5.64 5.65			
See next page for 129-130 kHz	5.61 5.64	See next page for 129-130 kHz	5.64 US294		

<table>
<tr><th colspan="3">International Table</th><th colspan="2">United States Table</th><th>FCC Rule Part(s)</th></tr>
<tr><th>Region 1</th><th>Region 2</th><th>Region 3</th><th>Federal Government</th><th>Non-Federal Government</th><th></th></tr>
<tr><td>129-130
FIXED
MARITIME MOBILE
RADIONAVIGATION 5.60

5.64</td><td>See previous page for 110-130 kHz</td><td>129-130
FIXED
MARITIME MOBILE
RADIONAVIGATION 5.60

5.64</td><td colspan="2">See previous page for 110-130 kHz</td><td>See previous page for 110-130 kHz</td></tr>
<tr><td>130-148.5
FIXED
MARITIME MOBILE

5.64 5.67</td><td>130-160
FIXED
MARITIME MOBILE

5.64</td><td>130-160
FIXED
MARITIME MOBILE
RADIONAVIGATION

5.64</td><td colspan="2">130-160
FIXED
MARITIME MOBILE

5.64 US294</td><td>Maritime (80)</td></tr>
<tr><td rowspan="5">148.5-255
BROADCASTING

5.68 5.69 5.70</td><td>160-190
FIXED</td><td>160-190
FIXED
Aeronautical radionavigation</td><td>160-190
FIXED
MARITIME MOBILE

US294</td><td>160-190
FIXED

US294</td><td></td></tr>
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AERONAUTICAL RADIONAVIGATION</td><td colspan="2">190-200
AERONAUTICAL RADIONAVIGATION US18

US226 US294</td><td rowspan="4">Aviation (87)</td></tr>
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AERONAUTICAL RADIONAVIGATION
Aeronautical mobile</td><td rowspan="2">200-285
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Aeronautical mobile</td><td colspan="2">200-275
AERONAUTICAL RADIONAVIGATION US18
Aeronautical mobile

US294</td></tr>
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AERONAUTICAL RADIONAVIGATION
Aeronautical mobile
Maritime radionavigation (radiobeacons)

US18 US294</td></tr>
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BROADCASTING
AERONAUTICAL RADIONAVIGATION

5.70 5.71</td><td colspan="3">285-315
AERONAUTICAL RADIONAVIGATION
MARITIME RADIONAVIGATION (radiobeacons) 5.73</td><td colspan="2">285-325
MARITIME RADIONAVIGATION (radiobeacons) 5.73
Aeronautical radionavigation (radiobeacons)</td></tr>
<tr><td>283.5-315
AERONAUTICAL RADIONAVIGATION
MARITIME RADIONAVIGATION (radiobeacons) 5.73

5.72 5.74</td><td colspan="5"></td></tr>
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315-325 AERONAUTICAL RADIONAVIGATION Maritime radionavigation (radiobeacons) 5.73 5.72 5.75	315-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation	315-325 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	US18 US294 US364		
325-405 AERONAUTICAL RADIONAVIGATION 5.72	325-335 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)	325-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	325-335 AERONAUTICAL RADIONAVIGATION (radiobeacons) Aeronautical mobile Maritime radionavigation (radiobeacons) US18 US294		Aviation (87)
	335-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile		335-405 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 Aeronautical mobile US294		
405-415 RADIONAVIGATION 5.76 5.72	405-415 RADIONAVIGATION 5.76 Aeronautical mobile		405-415 RADIONAVIGATION 5.76 US18 Aeronautical mobile US294		Maritime (80) Aviation (87)
415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION 5.72	415-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.80		415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION US294		
435-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.72 5.82	5.77 5.78 5.82		435-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.82 US231 US294	435-495 MARITIME MOBILE 5.79 5.79A 5.82 US231 US294	Maritime (80)
495-505 MOBILE (distress and calling) 5.83			495-505 MOBILE (distress and calling) 5.83		Maritime (80) Aviation (87)

505-2107 kHz (MF) Page 5

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION	505-510 MARITIME MOBILE 5.79	505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Land mobile	505-510 MARITIME MOBILE 5.79		Maritime (80)
	510-525 MOBILE 5.79A 5.84 AERONAUTICAL RADIONAVIGATION		510-525 MARITIME MOBILE (ships only) 5.79A 5.84 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 US14 US225		Maritime (80) Aviation (87)
5.72	525-535 BROADCASTING 5.86 AERONAUTICAL RADIONAVIGATION		525-535 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 MOBILE US221 US239		Aviation (87) Private Land Mobile (90)
526.5-1606.5 BROADCASTING		526.5-535 BROADCASTING Mobile 5.88			
	535-1605 BROADCASTING	535-1606.5 BROADCASTING	535-1605 US321	535-1605 BROADCASTING US321 NG128	Radio Broadcast (AM) (73) Auxiliary Broadcast (74) Alaska Fixed (80)
5.87 5.87A	1605-1625 BROADCASTING 5.89		1605-1615 MOBILE US221 US321	1605-1705 BROADCASTING 5.89	
1606.5-1625 FIXED MARITIME MOBILE 5.90 LAND MOBILE 5.92	5.90	1606.5-1800 FIXED MOBILE RADIOLOCATION RADIONAVIGATION	1615-1705 US238 US299 US321	US238 US299 US321 NG128	
1625-1635 RADIOLOCATION 5.93	1625-1705 FIXED MOBILE BROADCASTING 5.89 Radiolocation				
1635-1800 FIXED MARITIME MOBILE 5.90 LAND MOBILE	5.90				

5.92 5.96	1705-1800 FIXED MOBILE RADIOLOCATION AERONAUTICAL RADIONAVIGATION	5.91	1705-1800 FIXED MOBILE RADIOLOCATION US240		Maritime (80) Private Land Mobile (90)
1800-1810 RADIOLOCATION 5.93	1800-1850 AMATEUR	1800-2000 AMATEUR FIXED MOBILE except aeronautical mobile RADIONAVIGATION Radiolocation	1800-1900	1800-1900 AMATEUR	Amateur (97)
1810-1850 AMATEUR 5.98 5.99 5.100 5.101					
1850-2000 FIXED MOBILE except aeronautical Mobile 5.92 5.96 5.103	1850-2000 AMATEUR FIXED MOBILE except aeronautical mobile RADIOLOCATION RADIONAVIGATION 5.102	5.97	1900-2000 RADIOLOCATION US290		Private Land Mobile (90) Amateur (97)
2000-2025 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103	2000-2065 FIXED MOBILE		2000-2065 FIXED MOBILE	2000-2065 MARITIME MOBILE NG19	Maritime (80)
2025-2045 FIXED MOBILE except aeronautical mobile (R) Meteorological aids 5.104 5.92 5.103			US340	US340	
2045-2160 FIXED MARITIME MOBILE LAND MOBILE	2065-2107 MARITIME MOBILE 5.105 5.106		2065-2107 MARITIME MOBILE 5.105 US296 US340		
5.92	See next page for 2107-2170 kHz		See next page for 2107-2170 kHz		See next page

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 2045-2160 kHz	2107-2170 FIXED MOBILE		2107-2170 FIXED MOBILE	2107-2170 FIXED LAND MOBILE MARITIME MOBILE NG19	Maritime (80) Private Land Mobile (90)
2160-2170 RADIOLOCATION 5.93 5.107			US340	US340	
2170-2173.5 MARITIME MOBILE			2170-2173.5 MARITIME MOBILE (telephony) US340	2170-2173.5 MARITIME MOBILE US340	Maritime (80)
2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111			2173.5-2190.5 MOBILE (distress and calling) 5.108 5.109 5.110 5.111 US279 US340		Maritime (80) Aviation (87)
2190.5-2194 MARITIME MOBILE			2190.5-2194 MARITIME MOBILE (telephony) US340	2190.5-2194 MARITIME MOBILE US340	Maritime (80)
2194-2300 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.112	2194-2300 FIXED MOBILE 5.112		2194-2495 FIXED MOBILE	2194-2495 FIXED LAND MOBILE MARITIME MOBILE NG19	Maritime (80) Aviation (87) Private Land Mobile (90)
2300-2498 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.103	2300-2495 FIXED MOBILE BROADCASTING 5.113		US340	US340	
2498-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)	2495-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)		2495-2501 STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) US340		

2501-2502 STANDARD FREQUENCY AND TIME SIGNAL Space research		2501-2502 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	2501-2502 STANDARD FREQUENCY AND TIME SIGNAL US340	
2502-2625 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103 5.114	2502-2505 STANDARD FREQUENCY AND TIME SIGNAL	2502-2505 STANDARD FREQUENCY AND TIME SIGNAL US340		
2625-2650 MARITIME MOBILE MARITIME RADIONAVIGATION 5.92	2505-2850 FIXED MOBILE	2505-2850 FIXED MOBILE	2505-2850 FIXED LAND MOBILE MARITIME MOBILE	Maritime (80) Aviation (87) Private Land Mobile (90)
2650-2850 FIXED MOBILE except aeronautical mobile (R) 5.92 5.103		US285 US340	US285 US340	
2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115		2850-3025 AERONAUTICAL MOBILE (R) 5.111 5.115 US283 US340		Aviation (87)
3025-3155 AERONAUTICAL MOBILE (OR)		3025-3155 AERONAUTICAL MOBILE (OR) US340		
3155-3200 FIXED MOBILE except aeronautical mobile (R) 5.116 5.117		3155-3230 FIXED MOBILE except aeronautical mobile (R)		Maritime (80) Private Land Mobile (90)
3200-3230 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113 5.116		US340		

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
3230-3400 FIXED MOBILE except aeronautical mobile BROADCASTING 5.113 5.116 5.118			3230-3400 FIXED MOBILE except aeronautical mobile Radiolocation US340		Maritime (80) Aviation (87) Private Land Mobile (90)
3400-3500 AERONAUTICAL MOBILE (R)			3400-3500 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
3500-3800 AMATEUR FIXED MOBILE except aeronautical mobile 5.92	3500-3750 AMATEUR 5.119	3500-3900 AMATEUR FIXED MOBILE	3500-4000	3500-4000 AMATEUR	Amateur (97)
3800-3900 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	3750-4000 AMATEUR FIXED MOBILE except aeronautical mobile (R)				
3900-3950 AERONAUTICAL MOBILE (OR) 5.123		3900-3950 AERONAUTICAL MOBILE BROADCASTING			
3950-4000 FIXED BROADCASTING		3950-4000 FIXED BROADCASTING			
	5.122 5.125	5.126	US340	US340	
4000-4063 FIXED MARITIME MOBILE 5.127 5.126			4000-4063 FIXED MARITIME MOBILE US340		Maritime (80)
4063-4438 MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132 5.128 5.129			4063-4438 MARITIME MOBILE 5.79A 5.109 5.110 5.130 5.131 5.132 US82 US296 US340		Maritime (80) Aviation (87)

4438-4650 FIXED MOBILE except aeronautical mobile (R)		4438-4650 FIXED MOBILE except aeronautical Mobile	4438-4650 FIXED MOBILE except aeronautical mobile (R) US340		Maritime (80) Aviation (87) Private Land Mobile (90)
4650-4700 AERONAUTICAL MOBILE (R)			4650-4700 AERONAUTICAL MOBILE (R) US282 US283 US340		Aviation (87)
4700-4750 AERONAUTICAL MOBILE (OR)			4700-4750 AERONAUTICAL MOBILE (OR) US340		
4750-4850 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE BROADCASTING 5.113	4750-4850 FIXED MOBILE except aeronautical mobile (R) BROADCASTING 5.113	4750-4850 FIXED BROADCASTING 5.113 Land mobile	4750-4850 FIXED MOBILE except aeronautical mobile (R) US340		Maritime (80)
4850-4995 FIXED LAND MOBILE BROADCASTING 5.113			4850-4995 FIXED MOBILE US340	4850-4995 FIXED US340	Aviation (87)
4995-5003 STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz)			4995-5003 STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz) US340		
5003-5005 STANDARD FREQUENCY AND TIME SIGNAL Space research			5003-5005 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	5003-5005 STANDARD FREQUENCY AND TIME SIGNAL US340	
5005-5060 FIXED BROADCASTING 5.113			5005-5060 FIXED US340		Maritime (80) Aviation (87) Private Land Mobile (90)

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
5060-5250 FIXED Mobile except aeronautical mobile 5.133			5060-5450 FIXED Mobile except aeronautical mobile		Maritime (80) Aviation (87) Private Land Mobile (90)
5250-5450 FIXED MOBILE except aeronautical mobile			US212 US340		
5450-5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5450-5480 AERONAUTICAL MOBILE (R)	5450-5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5450-5680 AERONAUTICAL MOBILE (R)		Aviation (87)
5480-5680 AERONAUTICAL MOBILE (R) 5.111 5.115			5.111 5.115 US283 US340		
5680-5730 AERONAUTICAL MOBILE (OR) 5.111 5.115			5680-5730 AERONAUTICAL MOBILE (OR) 5.111 5.115 US340		
5730-5900 FIXED LAND MOBILE	5730-5900 FIXED MOBILE except aeronautical mobile (R)	5730-5900 FIXED Mobile except aeronautical mobile (R)	5730-5900 FIXED MOBILE except aeronautical mobile (R) US340		Maritime (80) Aviation (87)
5900-5950 BROADCASTING 5.134 5.136			5900-5950 BROADCASTING FIXED MOBILE except aeronautical mobile (R) US340 US366		Radio Broadcast (HF) (73) Maritime (80) Aviation (87)
5950-6200 BROADCASTING			5950-6200 BROADCASTING US340		Radio Broadcast (HF) (73)
6200-6525 MARITIME MOBILE 5.109 5.110 5.130 5.132 5.137			6200-6525 MARITIME MOBILE 5.109 5.110 5.130 5.132 US82 US296 US340		Maritime (80)
6525-6685 AERONAUTICAL MOBILE (R)			6525-6685 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)

6685-6765 AERONAUTICAL MOBILE (OR)			6685-6765 AERONAUTICAL MOBILE (OR) US340		
6765-7000 FIXED Land mobile 5.139 5.138			6765-7000 FIXED Mobile 5.138 US340		ISM Equipment (18)
7000-7100 AMATEUR AMATEUR-SATELLITE 5.140 5.141			7000-7100 US340	7000-7100 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
7100-7300 BROADCASTING	7100-7300 AMATEUR 5.142	7100-7300 BROADCASTING	7100-7300 US340	7100-7300 AMATEUR 5.142 US340	
7300-7350 BROADCASTING 5.134 5.143			7300-7350 BROADCASTING FIXED Mobile US340 US366		Radio Broadcast (HF) (73) Maritime (80) Private Land Mobile (90)
7350-8100 FIXED Land mobile 5.144			7350-8100 FIXED Mobile US340		Maritime (80) Aviation (87) Private Land Mobile (90)
8100-8195 FIXED MARITIME MOBILE			8100-8195 FIXED MARITIME MOBILE US340		Maritime (80)
8195-8815 MARITIME MOBILE 5.109 5.110 5.132 5.145 5.111			8195-8815 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 5.111 US296 US340		Maritime (80) Aviation (87)
8815-8965 AERONAUTICAL MOBILE (R)			8815-8965 AERONAUTICAL MOBILE (R) US340		Aviation (87)
8965-9040 AERONAUTICAL MOBILE (OR)			8965-9040 AERONAUTICAL MOBILE (OR) US340		

9040-13410 kHz (HF) Page 13

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
9040-9400 FIXED			9040-9400 FIXED US340		Maritime (80)
9400-9500 BROADCASTING 5.134 5.146			9400-9500 BROADCASTING FIXED US340 US366		Radio Broadcast (HF) (73) Maritime (80)
9500-9900 BROADCASTING 5.147			9500-9900 BROADCASTING 5.147 US340 US367		Radio Broadcast (HF) (73)
9900-9995 FIXED			9900-9995 FIXED US340		
9995-10003 STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz) 5.111			9995-10003 STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz) 5.111 US340		
10003-10005 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111			10003-10005 STANDARD FREQUENCY AND TIME SIGNAL 5.111 US340 G106	10003-10005 STANDARD FREQUENCY AND TIME SIGNAL 5.111 US340	
10005-10100 AERONAUTICAL MOBILE (R) 5.111			10005-10100 AERONAUTICAL MOBILE (R) 5.111 US283 US340		Aviation (87)
10100-10150 FIXED Amateur			10100-10150 US247 US340	10100-10150 AMATEUR US247 US340	Amateur (97)
10150-11175 FIXED Mobile except aeronautical mobile (R)			10150-11175 FIXED Mobile except aeronautical mobile (R) US340		
11175-11275 AERONAUTICAL MOBILE (OR)			11175-11275 AERONAUTICAL MOBILE (OR) US340		

11275-11400 AERONAUTICAL MOBILE (R)	11275-11400 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
11400-11600 FIXED	11400-11600 FIXED US340		
11600-11650 BROADCASTING 5.134 5.146	11600-11650 BROADCASTING FIXED US340 US366		Radio Broadcast (HF) (73)
11650-12050 BROADCASTING 5.147	11650-12050 BROADCASTING US340 US367		
12050-12100 BROADCASTING 5.134 5.146	12050-12100 BROADCASTING FIXED US340 US366		
12100-12230 FIXED	12100-12230 FIXED US340		
12230-13200 MARITIME MOBILE 5.109 5.110 5.132 5.145	12230-13200 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		Maritime (80)
13200-13260 AERONAUTICAL MOBILE (OR)	13200-13260 AERONAUTICAL MOBILE (OR) US340		
13260-13360 AERONAUTICAL MOBILE (R)	13260-13360 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
13360-13410 FIXED RADIO ASTRONOMY 5.149	13360-13410 RADIO ASTRONOMY US342 G115	13360-13410 RADIO ASTRONOMY US342	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
13410-13570 FIXED Mobile except aeronautical mobile (R) 5.150			13410-13570 FIXED Mobile except aeronautical mobile (R) 5.150 US340	13410-13570 FIXED 5.150 US340	ISM Equipment (18)
13570-13600 BROADCASTING 5.134 5.151			13570-13600 BROADCASTING FIXED Mobile except aeronautical mobile (R) US340 US366	13570-13600 BROADCASTING FIXED US340 US366	Radio Broadcast (HF) (73)
13600-13800 BROADCASTING			13600-13800 BROADCASTING US340		
13800-13870 BROADCASTING 5.134 5.151			13800-13870 BROADCASTING FIXED Mobile except aeronautical mobile (R) US340 US366	13800-13870 BROADCASTING FIXED US340 US366	
13870-14000 FIXED Mobile except aeronautical mobile (R)			13870-14000 FIXED Mobile except aeronautical mobile (R) US340	13870-14000 FIXED US340	
14000-14250 AMATEUR AMATEUR-SATELLITE			14000-14350	14000-14250 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
14250-14350 AMATEUR 5.152			 US340	14250-14350 AMATEUR US340	
14350-14990 FIXED Mobile except aeronautical mobile (R)			14350-14990 FIXED Mobile except aeronautical mobile (R) US340	14350-14990 FIXED US340	

14990-15005 STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz) 5.111	14990-15005 STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz) 5.111 US340		
15005-15010 STANDARD FREQUENCY AND TIME SIGNAL Space research	15005-15010 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	15005-15010 STANDARD FREQUENCY AND TIME SIGNAL US340	
15010-15100 AERONAUTICAL MOBILE (OR)	15010-15100 AERONAUTICAL MOBILE (OR) US340		
15100-15600 BROADCASTING	15100-15600 BROADCASTING US340		Radio Broadcast (HF) (73)
15600-15800 BROADCASTING 5.134 5.146	15600-15800 BROADCASTING FIXED US340 US366		
15800-16360 FIXED 5.153	15800-16360 FIXED US340		
16360-17410 MARITIME MOBILE 5.109 5.110 5.132 5.145	16360-17410 MARITIME MOBILE 5.109 5.110 5.132 5.145 US82 US296 US340		Maritime (80)
17410-17480 FIXED	17410-17480 FIXED US340		
17480-17550 BROADCASTING 5.134 5.146	17480-17550 BROADCASTING FIXED US340 US366		Radio Broadcast (HF) (73) Aviation (87)
17550-17900 BROADCASTING	17550-17900 BROADCASTING US340		Radio Broadcast (HF) (73)

17900-22855 kHz (HF)					Page 17
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
17900-17970 AERONAUTICAL MOBILE (R)			17900-17970 AERONAUTICAL MOBILE (R) US283 US340		Aviation (87)
17970-18030 AERONAUTICAL MOBILE (OR)			17970-18030 AERONAUTICAL MOBILE (OR) US340		
18030-18052 FIXED			18030-18068 FIXED		Maritime (80)
18052-18068 FIXED Space research			US340		
18068-18168 AMATEUR AMATEUR-SATELLITE 5.154			18068-18168 US340	18068-18168 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
18168-18780 FIXED Mobile except aeronautical mobile			18168-18780 FIXED Mobile US340		Maritime (80)
18780-18900 MARITIME MOBILE			18780-18900 MARITIME MOBILE US82 US296 US340		
18900-19020 BROADCASTING 5.134 5.146			18900-19020 BROADCASTING FIXED US340 US366		Radio Broadcast (HF) (73)
19020-19680 FIXED			19020-19680 FIXED US340		
19680-19800 MARITIME MOBILE 5.132			19680-19800 MARITIME MOBILE 5.132 US340		Maritime (80)
19800-19990 FIXED			19800-19990 FIXED US340		

19990-19995 STANDARD FREQUENCY AND TIME SIGNAL Space research 5.111 19995-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111	19990-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111 US340 G106	19990-20010 STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz) 5.111 US340	
20010-21000 FIXED Mobile	20010-21000 FIXED Mobile US340	20010-21000 FIXED US340	
21000-21450 AMATEUR AMATEUR-SATELLITE	21000-21450 US340	21000-21450 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
21450-21850 BROADCASTING	21450-21850 BROADCASTING US340		Radio Broadcast (HF) (73)
21850-21870 FIXED 5.155A 5.155 21870-21924 FIXED 5.155B	21850-21924 FIXED US340		Aviation (87)
21924-22000 AERONAUTICAL MOBILE (R)	21924-22000 AERONAUTICAL MOBILE (R) US340		
22000-22855 MARITIME MOBILE 5.132 5.156	22000-22855 MARITIME MOBILE 5.132 US82 US296 US340		Maritime (80)

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
22855-23000 FIXED 5.156			22855-23000 FIXED US340		
23000-23200 FIXED Mobile except aeronautical mobile (R) 5.156			23000-23200 FIXED Mobile except aeronautical mobile (R) US340	23000-23200 FIXED US340	
23200-23350 FIXED 5.156A AERONAUTICAL MOBILE (OR)			23200-23350 AERONAUTICAL MOBILE (OR) US340		
23350-24000 FIXED MOBILE except aeronautical mobile 5.157			23350-24890 FIXED MOBILE except aeronautical mobile US340	23350-24890 FIXED US340	
24000-24890 FIXED LAND MOBILE					
24890-24990 AMATEUR AMATEUR-SATELLITE			24890-24990 US340	24890-24990 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
24990-25005 STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz)			24990-25005 STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz) US340		
25005-25010 STANDARD FREQUENCY AND TIME SIGNAL Space research			25005-25010 STANDARD FREQUENCY AND TIME SIGNAL US340 G106	25005-25010 STANDARD FREQUENCY AND TIME SIGNAL US340	
25010-25070 FIXED MOBILE except aeronautical mobile			25010-25070 US340	25010-25070 LAND MOBILE US340 NG112	Private Land Mobile (90)

25070-25210 MARITIME MOBILE	25070-25210 MARITIME MOBILE US82 US281 US296 US340	25070-25210 MARITIME MOBILE US82 US281 US296 US340 NG112	Maritime (80) Private Land Mobile (90)
25210-25550 FIXED MOBILE except aeronautical mobile	25210-25330 US340	25210-25330 LAND MOBILE US340	Private Land Mobile (90)
	25330-25550 FIXED MOBILE except aeronautical mobile US340	25330-25550 US340	
25550-25670 RADIO ASTRONOMY 5.149	25550-25670 RADIO ASTRONOMY US74 US342		
25670-26100 BROADCASTING	25670-26100 BROADCASTING US25 US340		Radio Broadcast (HF) (73) Remote Pickup (74D)
26100-26175 MARITIME MOBILE 5.132	26100-26175 MARITIME MOBILE 5.132 US25 US340		Remote Pickup (74D) Maritime (80)

26175-28000 kHz (HF)					Page 21
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
26175-27500 FIXED MOBILE except aeronautical mobile			26175-26480 US340	26175-26480 LAND MOBILE US340	Remote Pickup (74D)
			26480-26950 FIXED MOBILE except aeronautical mobile US10 US340	26480-26950 US10 US340	
			26950-27410	26950-26960 FIXED 5.150 US340	ISM Equipment (18)
				26960-27230 MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Personal Radio (95)
				27230-27410 FIXED MOBILE except aeronautical mobile 5.150 US340	ISM Equipment (18) Private Land Mobile (90) Personal Radio (95)
5.150			27410-27540	27410-27540	Private Land Mobile (90)
27500-28000 METEOROLOGICAL AIDS FIXED MOBILE			 US340	FIXED LAND MOBILE US340	
			27540-28000 FIXED MOBILE US298 US340	27540-28000 US298 US340	

BILLING CODE 6712–01–C

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United States (US) Footnotes

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US18 Navigation aids in the U.S. and its insular areas in the bands 9–14 kHz, 90–110

kHz, 190–415 kHz, 510–535 kHz, and 2700–2900 MHz are normally operated by the Federal Government. However, authorizations may be made by the FCC for non-Federal Government operations in these bands subject to the conclusion of appropriate arrangements between the FCC and the Federal agencies concerned and upon special showing of need for service which the Federal Government is not yet prepared to render.

* * * * *

US25 The use of frequencies 26110 kHz, 26130 kHz, 26151 kHz, and 26172 kHz may be authorized to non-Federal Government remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to the reception of either international broadcast stations transmitting in the band 25850–26100 kHz or to coast stations transmitting in the band 26100–26175 kHz.

* * * * *

US82 The assignable frequencies in the bands 4146–4152 kHz, 6224–6233 kHz, 8294–8300 kHz, 12353–12368 kHz, 16528–16549 kHz, 18825–18846 kHz, 22159–22180 kHz, and 25100–25121 kHz may be authorized on a shared non-priority basis to Federal and non-Federal Government ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

* * * * *

US104 The LORAN Radionavigation System has priority in the band 90–110 kHz in the United States and its insular areas. Radiolocation land stations making use of LORAN-type equipment may be authorized to both Federal and non-Federal Government licensees on a secondary basis for offshore radiolocation activities only at specific locations and subject to such technical and operational conditions (*e.g.,* power, emission, pulse rate and phase code, hours of operation), including on-the-air testing, as may be required on a case-by-case basis to ensure protection of the LORAN radionavigation system from harmful interference and to ensure mutual compatibility among radiolocation operators. Such authorizations to stations in the radiolocation service are further subject to showing of need for service which is not currently provided and which the Federal Government is not yet prepared to render by way of the radionavigation service.

* * * * *

US225 In addition to its present Federal Government use, the band 510–525 kHz is available to Federal and non-Federal Government aeronautical radionavigation stations inland of the Territorial Base Line as coordinated with the military services. In addition, the frequency 510 kHz is available for non-Federal Government ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

* * * * *

US231 When an assignment cannot be obtained in the bands between 200 kHz and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile band 435–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile band which may be affected. Assignments to Federal Government aeronautical radionavigation radiobeacons in the band 435–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to non-voice emissions.

* * * * *

US238 On the condition that harmful interference is not caused to the reception of AM broadcast stations or to travelers' information stations, Federal Government stations in the band 1615–1705 kHz may continue operations until February 25, 2004.

* * * * *

US281 In the band 25070–25210 kHz, non-Federal Government stations in the Industrial/Business Pool shall not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the Table of Frequency Allocations.

US282 In the band 4650–4700 kHz, frequencies may be authorized for non-Federal Government communication with helicopters in support of off-shore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10005–10100 kHz, 11275–11400 kHz, 13260–13360 kHz, and 17900–17970 kHz, frequencies may be authorized for non-Federal Government flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

* * * * *

US298 Channels 27555 kHz, 27615 kHz, 27635 kHz, 27655 kHz, 27765 kHz, and 27860 kHz are available for use by forest product licensees on a secondary basis to Federal Government operations including experimental stations. Non-Federal Government operations on these channels will not exceed 150 watts output power and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

* * * * *

US321 The band 535–1705 kHz is also allocated to the non-Federal Government mobile service on a secondary basis for the distribution of public service information from Travelers' Information Stations operating in accordance with the provisions of 47 CFR 90.242 on 10 kilohertz spaced channels from 540 kHz to 1700 kHz.

* * * * *

US340 The band 2–30 MHz is available on a non-interference basis to Federal and non-Federal Government maritime and aeronautical stations for the purposes of measuring the quality of reception on radio channels. *See* 47 CFR 87.149 for the list of protected frequencies and bands within this frequency range. Actual communications shall be limited to those frequencies specifically allocated to the maritime mobile and aeronautical mobile services.

* * * * *

US342 In making assignments to stations of other services to which the following bands:

13360–13410 kHz,
25550–25670 kHz,
37.5–38.25 MHz,
322–328.6 MHz*,
1330–1400 MHz*,
1610.6–1613.8 MHz*,
1660–1670 MHz,
3260–3267 MHz*,
3332–3339 MHz*,
3345.8–3352.5 MHz*,
4825–4835 MHz*,
14.47–14.5 GHz*,
22.01–22.21 GHz*,
22.21–22.5 GHz,
22.81–22.86 GHz*,
23.07–23.12 GHz*,
31.2–31.3 GHz,
36.43–36.5 GHz*,
42.5–43.5 GHz,
48.94–49.04 GHz*,
93.07–93.27 GHz*,
97.88–98.08 GHz*,
140.69–140.98 GHz*,
144.68–144.98 GHz*,
145.45–145.75 GHz*,
146.82–147.12 GHz*,
150–151 GHz*,
174.42–175.02 GHz*,
177–177.4 GHz*,
178.2–178.6 GHz*,
181–181.46 GHz*,
186.2–186.6 GHz*,
250–251 GHz*,
257.5–258 GHz*,
261–265 GHz,
262.24–262.76 GHz*,
265–275 GHz,
265.64–266.16 GHz*,
267.34–267.86 GHz*,
271.74–272.26 GHz*

are allocated (* indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or air-borne stations can be particularly serious sources of interference to the radio astronomy service (*see* Nos. 4.5 and 4.6 and Article 29 of the ITU Radio Regulations).

* * * * *

US364 Consistent with US18, stations may be authorized on a primary basis in the band 285–325 kHz for the specific purpose of transmitting differential global positioning system information.

US366 On April 1, 2007, the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz, and 18900–19020 kHz shall be allocated exclusively to the broadcasting service. Beginning April 1, 2007, frequencies in these bands may be used by stations in the fixed and mobile services, communicating only within the United States and its insular areas, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies

for fixed and mobile services, licensees shall be limited to the minimum power needed to achieve communications and shall take account of the seasonal use of frequencies by the broadcasting service published in accordance with Article 12 of the ITU *Radio Regulations.*

US367 On the condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11650–11700 kHz, and 11975–12050 kHz may be used by Federal Government stations in the fixed service communicating within the United States and its insular areas that are authorized as of [effective date of the Report and Order published in the **Federal Register**]. Each such station shall be limited to a total radiated power of 24 dBW.

* * * * *

PART 73—RADIO BROADCAST SERVICES

■ 3. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

■ 4. Section 73.701 is amended by revising paragraphs (a), (e), (g), (h), (i), (j), and (l) to read as follows:

§ 73.701 Definitions.

* * * * *

(a) *International broadcast stations.* A broadcasting station employing frequencies allocated to the broadcasting service between 5900 and 26100 kHz, the transmissions of which are intended to be received directly by the general public in foreign countries. (A station may be authorized more than one transmitter.) There are both Federal and non-Federal Government international broadcast stations; only the latter are licensed by the Commission and are subject to the rules of this subpart.

* * * * *

(e) *Coordinated Universal Time (UTC).* Time scale, based on the second (SI), as defined in Recommendation ITU–R TF.460–5. UTC is equivalent to mean solar time at the prime median (0° longitude), formerly expressed as GMT.

* * * * *

(g) *Day.* Any twenty-four hour period beginning 0100 UTC and ending 0100 UTC.

(h) *Schedule A.* That portion of any year commencing at 0100 UTC on the last Sunday in March and ending at 0100 UTC on the last Sunday in October.

(i) *Schedule B.* That portion of any year commencing at 0100 UTC on the last Sunday in October and ending at 0100 UTC on the last Sunday in March.

(j) [Reserved]

* * * * *

(l) *Reference month.* That month of a season which is used for determining predicted propagation characteristics for the season. The reference month for Schedule A is July and the reference month for Schedule B is December.

* * * * *

■ 5. Sections 73.702 is amended by revising paragraph (f) introductory text, (f)(1), (f)(2) introductory text, and (f)(3) to read as follows:

§ 73.702 Assignment and use of frequencies.

* * * * *

(f) Assigned frequencies shall be within the following bands, which are allocated on an exclusive basis to the broadcasting service:

(1) 5950–6200 kHz, 9500–9900 kHz, 11650–12050 kHz, 13600–13800 kHz, 15100–15600 kHz, 17550–17900 kHz, 21450–21850 kHz, and 25670–26100 kHz.

(2) In addition, the band 7100–7300 kHz is allocated on an exclusive basis to the broadcasting service in International Telecommunication Union (ITU) Regions 1 and 3 as defined in 47 CFR. 2.104(b). Assignments in the band 7100–7300 kHz shall be limited to international broadcast stations located in ITU Region 3 insular areas (as defined in 47 CFR. 2.105(a), note 4) that transmit to zones and areas of reception in ITU Region 1 or 3. In addition, during the hours of 0800–1600 UTC (Coordinated Universal Time) antenna gain with reference to an isotropic radiator in any easterly direction that would intersect any area in Region 2 shall not exceed 2.15 dBi, except in the case where a transmitter power of less than 100 kW is used. In this case, antenna gain on restricted azimuths shall not exceed that which is determined in accordance with equation below. Stations desiring to operate in this band must submit sufficient antenna performance information to ensure compliance with these restrictions. Permitted Gain for Transmitter powers less than 100 kW:

* * * * *

(3) In addition, frequencies within the following bands are assignable to the broadcasting service on an exclusive basis after April 1, 2007: 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz, and 18900–19020 kHz (WARC–92 HFBC bands).

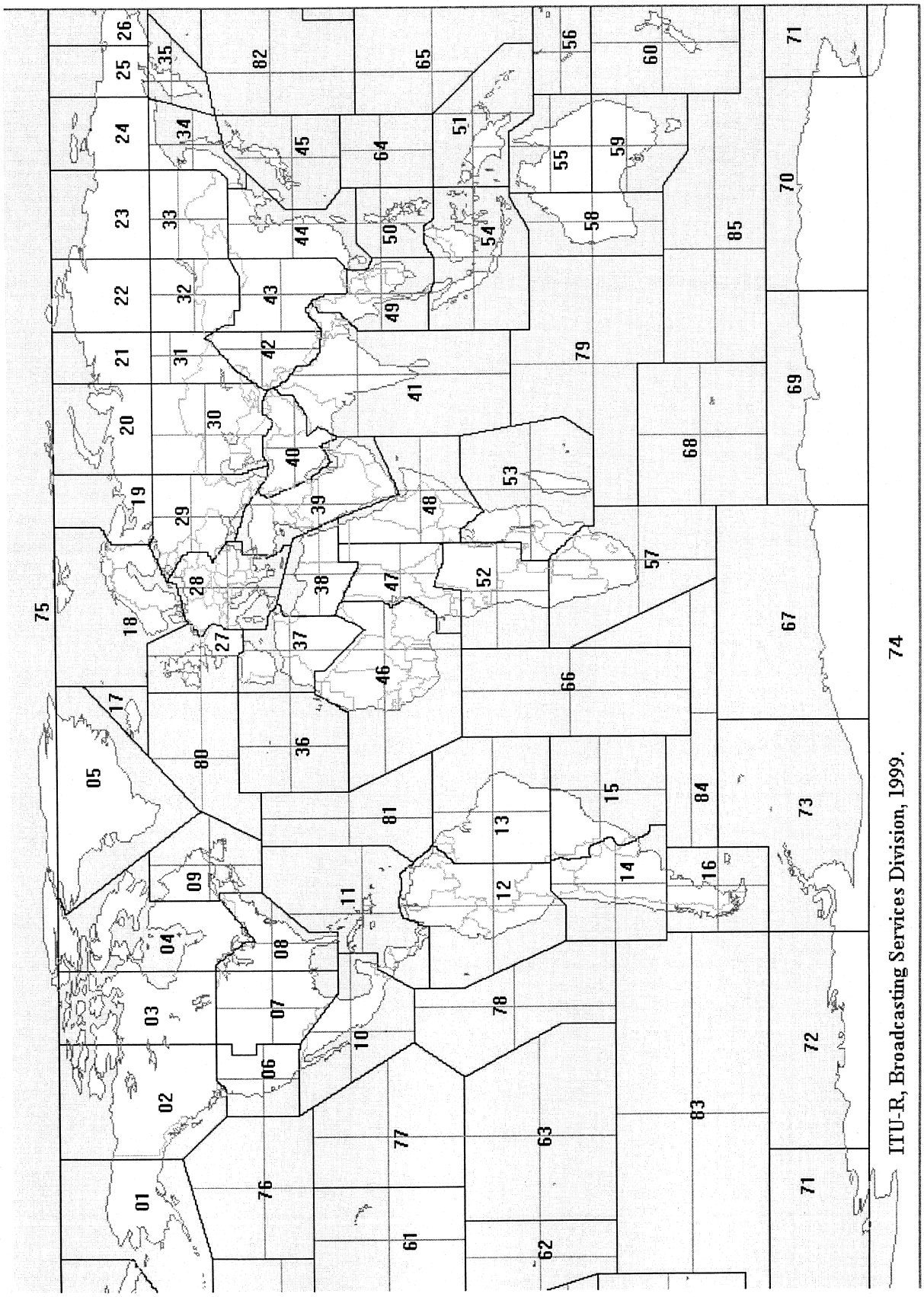
* * * * *

■ 6. Section 73.703 is amended by revising the map to read as follows:

§ 73.703 Geographical zones and areas of reception.

* * * * *

BILLING CODE 6712–01–P



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■ 7. Section 73.756 is amended by revising paragraph (c) to read as follows:

§ 73.756 Transmission system requirements.

* * * * *

(c) *Frequency tolerance.* The transmitter shall maintain the operating frequency within 10 Hz of the assigned frequency.

■ 8. Section 73.766 is revised to read as follows:

§ 73.766 Modulation and bandwidth.

The percentage of modulation shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice. In no case shall it exceed 100 percent on positive or negative peaks of frequent recurrence. It should not be less than 85 percent on peaks of frequent recurrence. The range of modulation frequencies shall be so controlled that the authorized bandwidth of the emission shall not be exceeded under all conditions of modulation. The highest modulating frequency shall not exceed 4.5 kHz.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCASTING AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 9. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h), and 554.

■ 10. Section 74.402 is amended by revising paragraph (a) introductory text and by removing and reserving paragraphs (a)(1) and (e)(1) to read as follows:

§ 74.402 Frequency assignment.

(a) The following channels may be assigned for use by broadcast remote pickup stations using any emission (other than single sideband or pulse) that will be in accordance with the provisions of § 74.462.

* * * * *

§ 74.462 [Amended]

■ 11. Section 74.462 is amended by removing the entry containing the single text ''kHz'' in the Frequencies column and the entry for frequencies 1606, 1622, and 1646 from the table in paragraph (b).

§ 74.464 [Amended]

■ 12. Section 74.464 is amended by removing the entry for frequency range 1.6 to 2 MHz, the entry for 200 W or less, the entry for over 200 W, and footnote 1 from the table.

PART 80—STATIONS IN THE MARITIME SERVICES

■ 13. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 14. Section 80.373 is amended by revising paragraph (d)(1) and by revising the first seven entries in column 1 of the table in paragraph (i) to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(d) * * *

(1) The following table describes the bands available for radioprinter simplex communications between ship and private coast stations:

Frequency Bands (kHz)

2107–2170	4750–4850
2194–2495	5060–5450
2505–2850	5700–5950 [1]
3155–3400	7300–8100 [1]
4438–4650	

[1] After April 1, 2007, use of the sub-bands 5900–5950 kHz and 7300–7350 kHz shall be on the condition that harmful interference is not caused to HF broadcasting.

* * * * *

(i) * * *

Private Communications in Alaska Carrier Frequencies (kHz)

1619.0 [3] * * *
1622.0 [3]
1643.0 [3]
1646.0 [3]
1649.0 [3]
1652.0 [3]
1705.0 [3]
* * *

* * * * *

[3] Use of these frequencies is on a secondary basis to Region 2 broadcasting.

* * * * *

■ 15. Section 80.387 is amended by revising the table in paragraph (b) to read as follows:

§ 80.387 Frequencies for Alaska fixed stations.

(b) *Alaska private-fixed station frequencies:*

CARRIER FREQUENCIES (kHz)

1643.0 [4]	2430.0	2773.0
1646.0 [4]	2447.0	3164.5
1649.0 [4]	2450.0	3183.0
1652.0 [4]	2463.0	3196.0
1657.0 [4]	2466.0	3201.0

CARRIER FREQUENCIES (kHz)—Continued

1660.0 [1 4]	2471.0	3258.0
1705.0 [4]	2479.0	3261.0
1709.0	2482.0	3303.0
1712.0	2506.0	3365.0
2003.0	2509.0	4035.0
2006.0	2512.0	5164.5
2115.0	2535.0	[3] 5167.5
2118.0	2538.0	5204.5
2253.0	2563.0	[2] 6948.5
2400.0	2566.0	[2] 7368.5
2419.0	2601.0	8067.0
2422.0	2616.0	8070.0
2427.0	2691.0	[2] 11437.0
		[2 5] 11601.5

[1] Use of 1660.0 kHz must be coordinated to protect radiolocation on adjacent channels.

[2] Peak envelope power must not exceed 1 kW for radiotelephony. Teleprinter use is authorized.

[3] The frequency 5167.5 kHz is available for emergency communications in Alaska. Peak envelope power of stations operating on this frequency must not exceed 150 watts. When a station in Alaska is authorized to use 5167.5 kHz, such station may also use this frequency for calling and listening for the purpose of establishing communications.

[4] Use of these frequencies is on a secondary basis to Region 2 broadcasting.

[5] After April 1, 2007, use of the frequency 11601.5 kHz shall be on the condition that harmful interference is not caused to HF broadcasting.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 16. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

§ 90.20 [Amended]

■ 17. Section 90.20 is amended by removing the frequency entry for ''1630'' in paragraph (c)(3).

■ 18. Amend § 90.35 as follows:

■ a. In paragraph (b)(3), remove the frequency entries for 1614, 1628, 1652, 1676, and 1700 kHz.

■ b. In paragraph (b)(3), revise the frequency entries for 25.12, 25.14, 25.16, 25.18, and 25.20 MHz.

■ c. In paragraph (b)(3), add the frequency entries in numerical order for 27.555, 27.615, 27.635, 27.655, 27.765, and 27.86 MHz.

■ d. Remove and reserve paragraph (c)(2).

■ e. Add paragraph (c)(82).

The additions and revisions read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(b) * * *

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
Kilohertz			
2000 to 25000	Fixed, base or mobile	1	
2292	Base or mobile	4, 5, 7	
2398	.....do	5, 7	
4637.5	.....do	5, 7	
Megahertz			
* * * * * * *			
25.12	.....do	9	IP
25.14	.....do	3, 4, 9	IP
25.16	.....do	9	IP
25.18	.....do	3, 4, 9	IP
25.20	.....do	9	IP
* * * * * * *			
27.555	Base or mobile	82	
27.615	.....do	82	
27.635	.....do	82	
27.655	.....do	82	
27.765	.....do	82	
27.86	.....do	82	
29.71	.....do.		
* * * * * * *			

(c) * * *

(82) The frequency may be assigned only to entities meeting the definition of a forest product licensee (*see* § 90.7). Operations are on a secondary basis to Federal Government operations including experimental stations, will not exceed 150 watts output power, and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

* * * * *

19. Section 90.103 is amended by revising the kilohertz section of the table in paragraph (b), by revising paragraph (c)(4), by removing paragraphs (c)(28) and (c)(29), and by redesignating paragraphs (c)(30) and (c)(31) as paragraphs (c)(28) and (c)(29) to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(b) * * *

RADIOLOCATION SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Kilohertz		
70 to 90	Radiolocation land or mobile	1
90 to 110	Radiolocation land	2
110 to 130	Radiolocation land or mobile	1
1705 to 1715	.....do	4, 5, 6
1715 to 1750	.....do	5, 6
1750 to 1800	.....do	5, 6, 7
1900 to 1950	.....do	6, 25, 26, 27, and 30
1950 to 2000	.....do	6, 25, 27, and 30
3230 to 3400	.....do	6, 8
* * * * * * *		

(c) * * *

(4) The non-Federal Government radiolocation service in this band is on a secondary basis to stations in the aeronautical radionavigation service operating on 1708 kHz.

* * * * *

■ 20. Section 90.263 is revised to read as follows:

§ 90.263 Substitution of frequencies below 25 MHz.

Frequencies below 25 MHz when shown in the radio pool frequency listings under this part will be assigned to base or mobile stations only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant. These frequencies are available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases, a substitute frequency, if found to be available, may be assigned from the following bands: 1705–1750 kHz, 2107–2170 kHz, 2194–

2495 kHz, 2506–2850 kHz, 3155–3400 kHz, or 4438–4650 kHz. Since such assignments are in certain instances subject to additional technical and operation limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation. (This section is not applicable to the Radiolocation Radio Service, subpart F.)

PART 97—AMATEUR RADIO SERVICE

■ 21. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

§ 97.401 [Amended]

■ 22. Section 97.401 is amended by removing paragraph (b) and by redesignating paragraphs (c) and (d) as (b) and (c).

[FR Doc. 03–11723 Filed 5–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–435; MB Docket No. 02–300, RM–10576; MB Docket No. 02–296, RM–10571; MB Docket No. 02–298, RM–10574; MB Docket No. 02–299, RM–10575; MB Docket No. 02–297, RM–10572; MB Docket No. 02–302, RM–10579]

Radio Broadcasting Services; Colorado City, O'Brien, Panhandle, Shamrock, Stamford, TX, and Taloga, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of March 6, 2003, a document allotting six FM channels to various communities in Oklahoma and Texas. The document number was inadvertently listed as DA 03–345 in lieu of DA 03–435. This document corrects the document number.

DATES: Effective on May 13, 2003.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of March 6, 2003, (68 FR 10665) allotting six FM channels to various communities in Oklahoma and Texas. In FR Doc. 03–5338, the document number was listed incorrectly. This document changes the document number to DA 03–435.

■ In rule FR Doc. 03–5338 published on March 6, 2003, (68 FR 10665) make the following correction. On page 10665, in the first column, line 4, correct the document number to DA 03–435.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–11816 Filed 5–12–03; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 68, No. 92
Tuesday, May 13, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Kidde Aerospace Part Number (P/N) 898052 Hand-held Halon Fire Extinguishers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Kidde Aerospace P/N 898052 hand-held halon fire extinguishers that are utilized on aircraft. This proposed AD would require you to remove the affected fire extinguishers from service and would prevent you from using them in the future. This proposed AD is the result of information that shows that the discharge time of the affected fire extinguishers exceeds the maximum allowable discharge time. The problem is due to incomplete crimping of the siphon tube. The actions specified by this proposed AD are intended to remove from service fire extinguishers that had this incomplete crimping of the siphon tube. If not removed from service, these fire extinguishers could function at diminished levels and compromise the level of safety in an emergency situation.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before July 14, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2003–CE–19–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Kidde Aerospace, Kidde Technologies, Inc., 4200 Airport Drive, NW., Wilson, North Carolina 27896; telephone: (252) 237–7004. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Charles H. Bowser, Flight Test Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6047; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the proposed rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2003–CE–19–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The FAA has received information of problems with certain Kidde Aerospace P/N 898052 hand-held halon fire extinguishers that are utilized on aircraft. This information shows that the discharge time of the affected fire extinguishers exceeds the maximum allowable discharge time.

The problem is due to incomplete crimping of the siphon tube. Specifically, worn crimping tools were used to crimp the siphon tube. This is causing leakage between the siphon tube and the valve.

The fire extinguishers in question were manufactured from 1995 through 2002 and have a serial number of W–389653 or lower.

What Are the Consequences If the Condition Is Not Corrected?

If these fire extinguishers that had this incomplete crimping of the siphon tube are not removed from service, then the fire extinguishers could function at diminished levels and compromise the level of safety in an emergency situation.

Is There Service Information That Applies To This Subject?

Kidde Aerospace has issued Service Bulletin 898052–26–449, dated October 7, 2002.

What Are the Provisions of This Service Information?

The service bulletin describes the problem discussed in this proposed AD and includes procedures for identifying and returning the affected hand-held halon fire extinguishers.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information

related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on type design aircraft that utilize Kidde Aerospace P/N 898052 hand-held halon fire extinguishers that were manufactured from 1995 through 2002 and have a serial number of W–389653 or lower;

—The problem fire extinguishers should be removed from service; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to remove the affected fire extinguishers from service and would prevent you from using any affected fire extinguisher in the future.

How Does the Revision To 14 CFR Part 39 Affect This Proposed AD?

On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How Many Fire Extinguishers Would This Proposed AD Impact?

We estimate that this proposed AD could affect 38,695 fire extinguishers.

What Would Be the Cost Impact of This Proposed AD On Owners/Operators of the Affected Airplanes?

We estimate the following costs to remove the affected fire extinguishers from service (including replacing with another unit):

Labor cost	Parts cost	Total cost per airplane
2 workhours × $60 per hour = $120	No cost for parts. Allow 5 days or more to ship the defective fire extinguishers to Kidde Aerospace.	$120.

Compliance Time of This Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD would be ''within the next 6 months after the effective date of this AD.''

Why Is This Proposed Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

Although the slow discharge of the fire extinguishers is only a problem during flight, the unsafe condition is not a result of aircraft operation. Therefore, FAA has determined that a compliance based on calendar time should be utilized in this AD in order to ensure that the unsafe condition is addressed on all aircraft in a reasonable time period.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Kidde Aerospace: Docket No. 2003–CE–19–AD.

(a) *What products are affected by this AD?* This AD affects part number (P/N) 898052 hand-held halon fire extinguishers that were manufactured from 1995 through 2002 and have a serial number of W–389653 or lower.

(b) *Who must comply with this AD?* Anyone who wishes to operate any aircraft that is certificated in any category and utilizes one of the fire extinguishers identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to remove from service fire extinguishers that have incomplete crimping of the siphon tube. If not removed from service, these fire extinguishers could function at diminished levels and compromise the level of safety in an emergency situation.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Remove from service any P/N 898052 hand-held halon fire extinguisher that was manufactured from 1995 through 2002 and has a serial number of W–389653 or lower. You may not operate any aircraft without the applicable fire extinguishing equipment per FAA regulation.	Within the next 6 months after the effective date of this AD.	Kidde Aerospace Service Bulletin 898052–26–449, dated October 7, 2002, specifies procedures for identifying the affected fire extinguishers. It also includes procedures for shipping and exchanging the fire extinguishers.
(2) The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may remove the fire extinguisher specified in paragraph (d)(1) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	Within the next 6 months after the effective date of this AD.	Not Applicable.
(3) Do not install, on any aircraft, a Kidde Aerospace P/N 898052 hand-held halon fire extinguisher that was manufactured from 1995 through 2002 and has a serial number of W–389653 or lower.	As of the effective date of this AD	Not Applicable.

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.19. Send these requests to the Manager, Atlanta Aircraft Certification Office. For information on any already approved alternative methods of compliance, contact Charles H. Bowser, Flight Test Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6047; facsimile: (770) 703–6097.

(f) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Kidde Aerospace, Kidde Technologies, Inc., 4200 Airport Drive, NW, Wilson, North Carolina 27896; telephone: (252) 237–7004. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 7, 2003.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–11874 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 513

[BOP–1100–P]

RIN 1120–AA96

Freedom of Information Act and Privacy Act Requests: Removal of Rules

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons (Bureau) proposes to revise its Freedom of Information Act and Privacy Act regulations. We propose to eliminate rules pertaining to inmate requests to institutions for information, as these regulations pertain to internal agency practice and procedure and do not directly relate to the Freedom of Information Act (FOIA) or the Privacy Act (PA). We also propose to remove the remainder of our regulations regarding PA and FOIA requests for information. These rules merely reiterate and paraphrase general Department of Justice FOIA/PA regulations in 28 CFR part 16 and are therefore unnecessary in Bureau regulations.

DATES: Comments due by July 14, 2003.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: The Bureau proposes to amend its regulations on the Freedom of Information Act and Privacy Act (28 CFR part 513, subpart D). We published current regulations on this subject in the **Federal Register** on December 9, 1996 (61 FR 64950).

We now propose to eliminate our regulations regarding PA and FOIA requests for information (28 CFR 513.30–513–36 and 513.50–68). These rules merely reiterate and paraphrase general Department of Justice FOIA/PA regulations in 28 CFR part 16 and are not, therefore, necessary in Bureau regulations.

Further, we also propose to eliminate rules pertaining to inmate requests (28 CFR 513.40–513.44) to institutions for information, as these regulations pertain to internal agency practice and procedure and do not directly relate to the Freedom of Information Act (FOIA) or the Privacy Act (PA).

Sections 513.40–513.44 of our current regulations are under the undesignated subheading ''Inmate Requests to Institutions for Information.'' In this proposed rule, we removed these regulations because (1) they largely relate to internal agency procedures and directions to institution staff, (2) they cover procedures which are and will remain part of current Bureau policy, and (3) by removing them, we do not remove an inmate's ability to request information from institution staff without filing a FOIA request.

You can send written comments on this proposed rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments we get during the comment period before we take final action. If we can, we will try to consider comments we get after the end of the comment period. In light of comments we get, we may change the proposed rule.

We do not plan to have oral hearings on this proposed rule. All the comments we get remain on file for public inspection at the above address.

Executive Order 12866

We drafted and reviewed this regulation reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule was not reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 513

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

Under the rulemaking authority of the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons, we propose to amend 28 CFR part 513, subpart D, as follows.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 513—ACCESS TO RECORDS

1. Revise the authority citation for 28 CFR part 513 to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C.; 18 U.S.C. 3621, 3622, 3624, 4001, 4942, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 31 U.S.C. 3711(f); 5 CFR part 297.

§§ 513.30–513.68 (Subpart D) [Removed and reserved]

2. Remove and reserve Subpart D (§§ 513.30–513.68).

[FR Doc. 03–11539 Filed 5–12–03; 8:45 am]

BILLING CODE 4410–05–U

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2003–15136]

RIN 2135–AA18

Seaway Regulations and Rules: Stern Anchors and Navigation Underway

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by making requirement for stern anchors applicable to large tug and barge combinations and by adding new requirements for manning of the wheelhouse for vessels underway.

DATES: Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before June 12, 2003.

ADDRESSES: Signed, written comments should refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Written comments may also be submitted electronically at *http://dmses.dot.gov/submit/BlankDSS.asp.* All comments received will be available for examination between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–6823.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by making requirement for stern anchors applicable to new tug and barge combinations. Some tug and barge combinations that transit the Seaway carry dangerous or hazardous cargo and are just as large, 110 meters or more in combination, as the commercial vessels to which the requirement now applies. Accordingly, the SLSDC is proposing to make the requirement that a vessel be equipped with a stern anchor also applicable to these large tug and barge combinations. This will provide increased safety through greater control. Specifically, § 401.15, ''Stern anchors'', would be amended by adding a new subsection to read, ''Every integrated tug and barge or articulated tug and barge unit greater than 110 m in overall length which is constructed after January 1, 2003, shall be equipped with a stern anchor.''

In addition, the SLSDC is proposing changes to the manning requirements for navigation underway to ensure greater safety for all vessels, which includes tugs and tug and barge combinations as well. The rule already requires adequate manning and operation of the propulsion machinery. Inadequate manning of the wheelhouse and during mooring and other essential

duties also poses serious environmental and safety risks. Accordingly, it is proposed to amend § 401.35, ''Navigation underway'', by adding two new subsections (c) and (d) to read as follows: ''(c) man the wheelhouse of the vessel at all times by either the master or certified deck officer and by another qualified crewmember and (d) have sufficient well rested crewmembers available for mooring operations and other essential duties.''

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of human environment.

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 401 as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—[Amended]

1. The authority citation for subpart A of part 401 would continue to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. § 401.15 would be revised to read as follows:

§ 401.15 Stern anchors.

(a) Every ship of more than 110 m in overall length, the keel of which is laid after January 1, 1975, shall be equipped with a stern anchor.

(b) Every integrated tug and barge or articulated tug and barge unit greater than 110 m in overall length which is constructed after January 1, 2003, shall be equipped with a stern anchor.

2. In § 401.35, two new paragraphs (c) and (d) would be added to read as follows:

§ 401.35 Navigation underway.

* * * * *

(c) Man the wheelhouse of the vessel at all times by either the master or certified deck officer and by another qualified crewmember; and

(d) Have sufficient well rested crewmembers available for mooring operations and other essential duties.

Issued at Washington, DC on May 8, 2003. Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 03–11895 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL 184–1b; FRL–7481–4]

Approval and Promulgation of Implementation Plan; Illinois New Source Review Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a requested revision to the Illinois State Implementation Plan (SIP), affecting air permit rules, submitted on August 31, 1998. The submittal revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives written adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments on this action must be received by June 12, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location:

EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Steve Marquardt at (312) 353–3214 to arrange a time to inspect the submittal.

Written comments should be sent to:

Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353–

3214, E-Mail Address: *marquardt.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

I. What action is EPA taking today?
II. Where can I find more information about this proposal and corresponding direct final rule?

I. What Action Is EPA Taking Today?

The EPA is proposing to approve a requested revision to the Illinois SIP, affecting air permit rules, submitted on August 31, 1998. The submittal revises provisions for major modifications to stationary sources to align more closely with the Clean Air Act (CAA). The CAA sets forth the criteria for determining the applicability of the nonattainment NSR requirements in a serious or severe ozone nonattainment area.

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules and regulations section of this **Federal Register**.

Authority: 42 U.S.C. 4201 *et seq.*

Dated: April 2, 2003.

Bharat Mathur,

Regional Administrator, Region 5.

[FR Doc. 03–11750 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–7497–5]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the Federal Operating Permits Program under title V of the Clean Air Act (Act) to extend the date by which State-exempt major agricultural sources in California must pay fees and to allow their permit applications to be considered complete even though fees may not have been paid on or before the date that applications are due. This action would allow EPA to process the applications and issue permits while the Agency computes a fee amount based on the cost of administering the permits program for these sources. The proposed amendments would extend the due date for submitting operating permit fees to EPA until May 14, 2004, for agricultural sources that are major sources subject to title V but are not being permitted by 35 local air districts in the State of California. In the ''Rules and Regulations'' section of today's **Federal Register,** we are issuing the amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments. We have explained our reasons for this approval in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by June 12, 2003.

ADDRESSES: Comments may be submitted by mail to EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OAR–2003–0047.

Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. Candace Carraway, U.S. EPA, Information Transfer and Program Implementation Division, C304–04, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3189, facsimile number (919) 541–5509, electronic mail address: *carraway.candace@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' means EPA.

This document concerns revisions to Federal Operating Permits Program fee payment deadlines for California agricultural sources. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Regulated Entities

Categories and entities potentially affected by this action include agricultural sources that are major sources subject to title V but are not being permitted by any of the following 35 local air districts in the State of California: Amador County Air Pollution Control District (APCD), Antelope Valley APCD, Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

Docket

The EPA has established an official public docket for this action under Docket ID No. OAR–2003–0047. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include confidential business information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/*

to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

Comments

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

EPA Dockets

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2003–0047. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

E-mail

Comments may be sent by electronic mail (e-mail) to *air-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2003–0047. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket.

Disk or CD ROM

You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the next paragraph. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

By Mail

Send your comments to: EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460, Attention Docket ID No. OAR–2003–0047.

By Hand Delivery or Courier

Deliver your comments to: EPA Docket Center (Air Docket), Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2003–0047. Such deliveries are only accepted during the Docket's normal hours of operation as identified in this document.

By Facsimile

Fax your comments to: (202) 566–1741, Attention Docket ID. No. OAR–2003–0047.

World Wide Web (WWW)

After signature, the final rule will be posted on the policy and guidance page for newly proposed or final rules of EPA's Technology Transfer Network (TTN) at *http://www.epa.gov/ttn/oarpg/t5.html.* For more information, call the TTN Help line at (919) 541–5384.

What Are the Administrative Requirements for This Action?

Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business that meets the Small Business Administration size standards for small

businesses found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, country, town, school district or special district with a population of less than 50,000; and (3) a small organization that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities' (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments in today's proposed rule would merely defer the deadline for paying permit fees for sources affected by the proposed rule, thereby giving them more flexibility and reducing the burden on these sources. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: May 7, 2003.

Christine Todd Whitman,

Administrator.

[FR Doc. 03–11911 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FR–7497–6]

RIN 2090–AA25

Project XL Site-specific Rulemaking for Anne Arundel County Millersville Landfill, Severn, MD

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is publishing this proposed site-specific rule to implement a project under the Project eXcellence and Leadership (Project XL) program, an EPA initiative which encourages regulated entities to achieve better environmental results at decreased costs at their facilities. Today's proposal would provide site specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Anne Arundel County Millersville Landfill and Resource Recovery Facility, Severn, Maryland (the Landfill). The Landfill is owned and operated by Anne Arundel County (the County).

The County, the State of Maryland, and EPA signed a Final Project Agreement (FPA) for this project, which would allow for the addition of liquids to this landfill. The addition of liquids to landfills accelerates the biodegradation of landfill waste and is allowed for certain prescribed liner designs under current RCRA municipal solid waste landfill (MSWLF) regulations. The principal objective of this XL project to demonstrate that the alternative liner design at the Landfill is as protective as the liner prescribed in current RCRA municipal solid waste landfill regulations over which leachate recirculation is allowed under existing RCRA regulations.

The County Landfill is one of several landfills, located in different geographic and climatic regions across the country, that under Project XL are testing this bioreactor technology over alternative liner designs. In order to carry out this project, the Landfill needs relief from certain requirements in EPA regulations which set forth design and operating criteria for MSWLFs, requirements which would otherwise preclude the addition of liquids at this landfill. If promulgated, today's proposed rule would allow the addition of Landfill leachate and onsite storm water to a designated (approximately 160 by 200 foot) portion of Cell 8.4 at the Landfill. Expected benefits of this project include accelerated biodegradation of the Landfill waste, decreased time for the waste to reach stabilization and improved management of leachate and storm water.

DATES: *Public Comments:* Comments on this proposal must be received on or before June 12, 2003. All comments should be submitted according to the detailed directions below in the **SUPPLEMENTARY INFORMATION** section.

Public Hearing: Commenters may request a public hearing on or before May 27, 2003, and such requests should specify the basis for their request. If EPA determines that there is sufficient reason to hold a public hearing, it will do so by June 3, 2003, during the last week of the public comment period. Requests for a public hearing should be submitted to the address below.

ADDRESSES: Written comments should be mailed to the RCRA Docket Clerk (5305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please submit an original and two copies of all comments and refer to Docket Number RCRA–2002–0032. A copy should also be sent to Mr. Steven Donohue at the U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029. More detailed instructions for submitting comments in writing, electronically, by facsimile, or through hand delivery/courier are provided below in I.B. of the **SUPPLEMENTARY INFORMATION** section.

Request for a Hearing: Requests for a hearing should be mailed to the Environmental Protection Agency, EPA Docket Center (EPA/DC), RCRA Docket (5305T), 1200 Pennsylvania Ave. NW, Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number RCRA–2002–0032. A copy should also be sent to Mr. Steven Donohue at the U.S. EPA Region 3 office. Mr. Donohue may be contacted at the following address: U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3215. If a public hearing is scheduled, the date, time, and location will be available through a **Federal Register** notice or by contacting Mr. Steven Donohue at the U.S. EPA Region 3 office.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Donohue at the U.S. Environmental Protection Agency, Region 3, (3EI00), 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029 at (215) 814–3215 (or *donohue.steven@epa.gov*). Further information on today's action may also

be obtained on the world wide web at *http://www.epa.gov/projectxl/.*

SUPPLEMENTARY INFORMATION:

Outline of Today's Document

The information presented in this preamble is arranged as follows:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID No. RCRA–2002–0032. The official public docket consists of the documents specifically referenced in this action and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the RCRA Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the RCRA Docket is (202) 566–0270. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in I.A above.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket. Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to EPA's Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see a description of the EPA Dockets System at 67 FR 38102, May 31, 2002.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in I.B.2 and I.C. below. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any

cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. It is EPA's policy not to edit comments, and any identifying or contact information provided in the body of a comment will be included as part of the comment that will be placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

A. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. RCRA–2002–0032. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

B. E-mail. Comments may be sent by electronic mail (e-mail) to *rcra-docket@epa.gov,* Attention Docket ID No. RCRA–2002–0032. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

C. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail

Send two (2) copies of your comments to the RCRA Docket, Environmental Protection Agency, Mailcode: 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. RCRA–2002–0032.

3. By Hand Delivery or Courier

Deliver your comments to: Environmental Protection Agency, EPA Docket Center, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. RCRA–2002–0032. Such deliveries are only accepted during the Docket's normal hours of operation as identified in A.1 above.

4. By Facsimile

Fax your comments to: 202–566–0272, Attention Docket ID. No. RCRA–2002–0032.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Environmental Protection Agency, EPA Docket Center (EPA/DC), RCRA Docket, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. RCRA–2002–0032. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in Summary section above.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Authority

This rule is proposed under the authority of Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6907, 6912, 6945, and 6949a).

III. Background

A. What Is Project XL?

Project XL is an EPA initiative developed to encourage regulated entities to achieve better environmental results at less cost. Project XL—''eXcellence and Leadership''—was announced by EPA on March 16, 1995 (*see* 60 FR 27282, May 23, 1995). Detailed descriptions of Project XL have been published previously in numerous public documents which are generally available electronically via the Internet at *http://www.epa.gov/projectxl/.* Briefly, Project XL gives a limited number of regulated entities the opportunity to develop their own pilot projects and alternative strategies to achieve superior environmental performance compared to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other XL projects to determine which specific elements of the projects, if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Project XL is intended to allow EPA to experiment with new or pilot projects that provide alternative approaches to regulatory requirements, to assess

whether these alternative approaches provide benefits at the specific facility affected, and determine whether these projects should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site- or State-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

On September 18, 2000, EPA published a notice in the **Federal Register** requesting comments on the draft Final Project Agreement (FPA) for the Anne Arundel County Millersville Landfill XL project (65 FR 56308). The FPA was signed by EPA on December 7, 2000. A copy of the FPA is available in the docket and on the world wide web at *http://www.epa.gov/projectxl/.* The FPA is a non-binding written agreement between the project sponsor and regulatory agencies which describes the project in detail, discusses criteria to be met, identifies performance goals and indicators, and outlines how the agreement will be managed.

B. What Are Bioreactor Landfills?

A bioreactor landfill is generally defined as a landfill operated to transform and stabilize the readily and moderately decomposable organic constituents of the waste stream by purposeful control to enhance microbiological processes. Bioreactor landfills generally employ the addition of liquids such as leachate. A byproduct of the waste decomposition process is landfill gas, which includes methane, carbon dioxide, hazardous air pollutants and volatile organic compounds (VOCs). Landfill gases are produced sooner and faster in a bioreactor than in a conventional landfill. Therefore, bioreactors typically incorporate landfill gas collection systems to collect and control landfill gas upon start up of the liquid addition process.

On April 6, 2000, EPA published a document in the **Federal Register** requesting information on bioreactor landfills, because the Agency is considering whether and to what extent the Criteria for Municipal Solid Waste Landfills (MSWLFs), 40 CFR part 258, should be revised to allow for leachate recirculation over alternative liners in MSWLFs (65 FR 18015). EPA is seeking information about liquid additions and leachate recirculation in MSWLFs to the extent currently allowed, *i.e.*, in MSWLFs designed and constructed with a composite liner as specified in 40 CFR 258.40(a)(2).

Proponents of bioreactor technology believe that operating MSWLFs as bioreactors provides a number of environmental benefits, including an increased rate of waste decomposition, which in turn would extend the operating life of the landfill and lessen the need for additional landfill space or other disposal options. Bioreactors are also believed to decrease, or at times eliminate, the quantity of leachate requiring treatment and offsite disposal. Several studies have shown that leachate quality improves over time when leachate is recirculated on a regular basis. Based on these reasons, bioreactors are expected to decrease potential environmental risks and costs associated with leachate management, treatment and offsite disposal. Additionally, use of bioreactor techniques are believed to shorten the length of time the liner will be exposed to leachate and lower the long term potential for leachate migration into the subsurface environment. Bioreactors may reduce post-closure care costs and risks, due to the accelerated, controlled settlement of the solid waste during landfill operation.

Several additional related XL pilot projects involving operation of landfills with alternative liners as bioreactors are being implemented throughout the country. These additional bioreactor projects will enable EPA to evaluate benefits of different alternative liners and leachate recirculation systems under various climatic and operating conditions. As expressed in the above referenced April 2000 **Federal Register** document, EPA is interested in assessing the performance of landfills operated as bioreactors with alternative liners, and these XL projects are expected to produce valuable data.

The Anne Arundel County Millersville Landfill XL Project and the other related XL projects will provide additional information on the performance of MSWLFs when liquids are added to the landfill. The Agency is also interested in assessing how different types of alternative liners perform when liquids are added to the landfill, including maintaining a hydraulic head at acceptable levels. Additional information on bioreactor landfills is available at EPA's Web site at *http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/bioreactors.htm.*

IV. The Anne Arundel County Millersville Landfill and Resource Recovery Facility

A. Overview

The Landfill is located approximately 15 miles south of Baltimore on 565 acres in Severn, Maryland. The Landfill, which began operations in 1975, is owned and operated by the County and is the only active MSWLF in the County. Since 1975, Cells 1 through 7 at the Landfill were opened, filled and closed. Cells 1 through 7 were constructed before the current solid waste disposal laws and regulations and were not lined. With the exception of Cell 1 West and Cell 3, all of these Cells are now capped. In 1995 and 1997 respectively, Cell 3 and Cell 1 West were ''mined'' by the County, *i.e.*, all the waste and underlying soil was excavated and either recycled, disposed of or used as cover in Cell 8. The footprint where Cell 1 West was located was graded and seeded and the footprint where Cell 3 was located is now a storm water infiltration basin.

Active landfilling is occurring in portions of Cell 8 at the Landfill. Cell 8 is approximately 1200 feet by 2400 feet in size and is divided into 8 subcells. Subcells 8.1 through 8.6 have been constructed with a geomembrane double-liner system, with primary leachate collection and leak detection (secondary collection) layers. Subcells 8.7 and 8.8 have not been constructed. Subcell 8.4, where the proposed bioreactor test area is located, has not received any waste in approximately two years. Subcell 8.6, where the proposed control area is located, is currently receiving waste.

In 2000 the Landfill accepted approximately 390 tons per day (tpd) of municipal solid waste (MSW), of which 1/3 (approximately 130 tpd) was recovered for reuse and recycling and the remaining amount (approximately 260 tpd) was landfilled. The Landfill serves on average 660 customers (residents and businesses combined) per day, 7 days per week. There are approximately 5,800 residents within a 1-mile radius of the Landfill; approximately 2,750 residents within a 0.5-mile radius; and approximately 900 residents within a 0.25-mile radius.

The Landfill presently generates approximately 8,000 gallons of leachate per day. Leachate is collected and pumped to a 305,000 gallon influent tank. The leachate then flows to a pretreatment plant at the Landfill where it is treated in controlled batches. From there it is discharged into a 305,000 gallon effluent tank and ultimately discharged to the sanitary sewer and

into a publicly operated wastewater treatment works.

The leachate collection system in Subcell 8.4 of the Landfill consists of a two foot thick sand layer, a geonet that covers the entire bottom of the Subcell and a system of perforated high density polyethylene (HDPE) pipes placed in gravel blankets that overlay the geonet. Leachate is conveyed by the geonet and/or pipes to a sump, from which leachate is pumped and conveyed to an on-site leachate pretreatment facility. The leachate collection system in Subcell 8.4 is designed specifically to keep a very shallow depth of liquid on the top liner, and in any event less than the maximum 30 cm allowed under 40 CFR 258.40(a)(2) at all locations within the Subcell. In the sump areas, the liner system is enhanced by the addition of layers of geosynthetic clay liner (GCL) below both top and bottom geomembranes. The GCLs have saturated hydraulic conductivities of less than 1×10^{-9} cm/s. The GCLs together with the other liner components result in a double synthetic liner system beneath the sump. To monitor the integrity of the top liner, the quantity of leachate removed from the subcell sumps above the bottom liner (detection zone) is monitored on a continual basis. (The accumulation of some liquid due to condensation is expected and is considered a normal condition.) The number calculated and established as a ''not to exceed guideline'' is 100 gallons per acre of subcell floor per day. Daily monitoring of the liquid above the bottom liner will continue throughout the life of Subcell 8.4. To protect the drainage and liner system, the initial eight-foot lift of waste in Subcell 8.4 consisted of soft trash. Soft trash is solid waste that is collected from residential curbside trash pickups. No curbside waste may exceed four feet in length. Curbside household waste in general is softer than waste streams from commercial facilities or sources from homeowners self-hauling materials from their home or yard. This initial eight-foot lift of waste was compacted to six feet in thickness.

Forty-three groundwater and 29 Landfill Gas (LFG) monitoring wells are installed at the Landfill. The groundwater monitoring wells are installed within each water-bearing zone in the subsurface beneath the Landfill. The groundwater wells are sampled semi-annually, and the LFG monitoring wells are monitored quarterly. The County submits ground water sampling data to the Maryland Department of the Environment (MDE) for their review. Starting in 1995, the County has replaced a total of 14 private home wells to address the detection of landfill leachate contaminants in the upper aquifer or water bearing zone. The County replaced these wells with deeper double cased wells into a deeper aquifer when they had confirmed the detection of landfill contaminants in two consecutive sampling rounds. The County also samples 8 other private home wells in the area twice a year to check for possible contamination. The groundwater contamination is believed to have originated from the older unlined cells at the Landfill that are now either capped or have been mined by the County. The County has proposed to MDE that monitoring well TW–20, that is directly down gradient from Cell 8, be designated as the groundwater point of compliance well for the XL Project. Landfill leachate contaminants have not been detected in TW–20 (acetone, which is a common laboratory reagent, and carbon disulfide have been detected three times and one time respectively but neither has been detected since April of 1999) .

This XL project is part of Anne Arundel County's larger efforts to further improve the management of its solid waste. In 1995, the County adopted a comprehensive Solid Waste Management Strategy (Strategy), the main objective of which is to extend the life of the Landfill. The Strategy comprises an integrated system involving waste reduction, recycling, reuse and innovative technologies that provides for a multi-faceted approach for meeting the County's future solid waste management needs. Thus far, this Strategy has reduced the waste entering the Landfill from 800 tons/day in 1994 to 260 tons/day in 2000. The County has an approximately 30% recycling rate. The County operates three ''convenience centers'', including one at the Landfill, where residents can bring in and drop off, at no cost, a wide variety of materials for recycling including: Oil, anti-freeze, lead-acid batteries, appliances, metal, wood, cardboard, paper, plastic and yard waste. The County manages a total of approximately 320,600 tons of waste per year. Approximately 75% of this total is either exported for disposal outside the County or recycled. The remaining 25% is disposed of at the Landfill. When the Landfill opened in 1975 it had a projected life of 25 years, or until the year 2000. As a result of the County's Solid Waste Management Strategy, the Landfill is now projected to be able to accept waste until 2063.

B. Description of the XL Project

The County's bioreactor pilot project will involve injecting a controlled amount of liquids through injection devices into a 160 foot by 200 foot (approximately 3/4 of an acre) test area located within the southwestern portion of Subcell 8.4. The XL project will last for up to a seven-year period (depending on effectiveness), and will involve the monitoring of settlement, production of LFG and improvement of leachate quality. The objectives of the project are as follows: To design and construct a bioreactor test area in Subcell 8.4 of the Landfill; perform liquid injection in a controlled manner using different injection methods; monitor surface settlement, injection rates and related parameters over a period of time; evaluate results and ultimately identify the method that will most effectively increase the Landfill's waste capacity; and evaluate cost effectiveness of bioreactor techniques as a method of capacity creation.

The following discussion provides information on the proposed pilot design. The drawings of the test area location, proposed system layout, and details of the supplemental LFG collection system (if required) were provided in the FPA Attachments IV, V, and VIII.

1. Proposed Test Area

The proposed test area measures 160 feet by 200 feet and is located within the southwestern portion of Subcell 8.4. The test area is centered in a trapezoidal shaped plateau that gradually slopes to the northwest at an approximately 2 percent slope. Subcell 8.4 is bounded on three sides by other existing subcells. The fourth side is adjacent to the side slope of the cell. The distance from the test area to the side slope varies from approximately 50 to 100 feet. The side slopes in Cell 8 are constructed at a 3:1 slope. The test area is adjacent to an existing haul road which makes it accessible to tank trucks for easier liquid injection. The waste volume in this area is approximately 95,500 cubic yards (waste depth from surface to liner is approximately 80 to 85 feet).

Subcell 8.4 began accepting MSW in October 1992. Subcell 8.4 has accepted only small quantities of curbside MSW since 1997; it last accepted primarily construction debris about two years ago. Thus, the lowermost portion of the waste in Subcell 8.4 contains typical MSW, while the uppermost portion contains waste that is proportionately higher in construction debris and lower in decomposable organic materials. Several lifts of typical MSW in the lowermost portion of the Subcell 8.4 were involved in a County ''mauler'' project. The mauler was used to grind the waste into a relatively homogeneous

and small particle size that has an increased surface area. In 1999, the County completed a waste composition study to provide more detailed information about recent waste placement in the area of the proposed test. Additional information is in a March 1995 County waste sort report.

The County used soil as a daily cover at the site until March 1993. Since then, the County has primarily used removable and reusable tarpaulins (tarps) throughout Cell 8 as the cover (approximately 97 percent of the time, depending on weather conditions). Previous use of tarps (rather than soil cover, for example) presents good conditions for a bioreactor study, as there is less potential for the creation of barriers (*e.g.*, compacted soil cover) to limit vertical penetration of liquid into the waste mass. Subcell 8.4 currently has an interim soil cover and an approximately 12 inch thick layer of shredded wood mulch generated from tree and yard waste.

2. Liquid Injection

To improve the evaluation of different infiltration systems, the proposed test area will include two vertical injection wells and two horizontal injection trenches. The two trenches are proposed to be constructed parallel to the nearest side slope and excavated so that they slope back toward the middle of the Cell 8.4 (southeast) at a 1 percent grade in order to minimize excavation depths, promote gravity drainage, and eliminate possible (landfill) side-slope seepage. The horizontal trenches would consist of 6-inch diameter perforated or slotted pipe centered in a 2 x 1.5-foot trench, backfilled with high permeability stone or gravel. Proprietary leachate pipe products that are relatively new to the waste industry may also be considered.

Plans for the two vertical wells consist of slotted or perforated 6-inch diameter pipe centered in a 3-foot diameter borehole and backfilled with high permeability stone. The well depths would be selected to penetrate between one-third and one-half the overall waste depth.

Design spacing for the wells and trenches minimizes overlapping areas of influence and will reduce uncertainties that may be introduced by overlapping influences. The injection devices are designed to maximize the amount of liquid that can be injected; however, actual injection rates will be varied in response to information learned from the degree of infiltration and resulting settlement. Design details of the proposed vertical wells and horizontal trenches are shown in Attachment V of the FPA and were submitted by the County to MDE and EPA in an April 17, 2001 letter with enclosed drawings.

3. Settlement Plates

Prior to system startup, the County will install monuments (settlement plates) to monitor settlement caused by the degradation of the waste. These settlement plates will be strategically located around wells and trenches to measure surface movements during the study. The top elevation of each plate will be surveyed prior to liquid injection. The County plans to monitor these settlement plates at least monthly, but will do so more frequently if information suggests that settlement is occurring at a rapid rate. At least one plate will be located in a control area that is adjacent to the test area and outside the zone of influence for the liquid injection system. This control area will measure normal settlement rates as a comparison. Additionally, a stable elevation benchmark will be established to ensure that all readings are based on the same baseline elevation. Annual aerial topographic surveys will also be performed to aid in the evaluation of settlement and the effectiveness of the leachate recirculation.

4. Landfill Gas

The design capacity of the entire Landfill exceeds the New Source Performance Standard (NSPS) thresholds, and thus the Landfill must comply with 40 CFR part 60, subpart WWW. Cell 8 currently operates under an Alternate Operating Scenario (AOS) approved by the State of Maryland under its NSPS Program, and the County has included the AOS in its application for a Part 70 Permit (also known as a Title V permit) under the Clean Air Act (CAA). The Title V Permit for the Landfill was signed on August 29, 2001. The AOS provides that at Cell 8 LFG is collected via existing leachate collection system components, rather than from separate LFG extraction wells and/or trenches. The AOS also postpones the requirement for quarterly measurement of surface methane emissions under 40 CFR part 60, subpart WWW. The AOS applies to Cell 8 only. Each of the other Cells is part of an active LFG collection system comprising separate extraction wells and/or trenches, and are monitored quarterly for LFG.

Recognizing that the addition of liquids enhances the generation of LFG, the County has agreed to take all necessary steps to control and monitor LFG in the area of the bioreactor experiment. To accomplish these steps, and as further detailed below, the County has: (1) Requested an amendment to its AOS under which it will be required to conduct quarterly surface methane emissions monitoring, beginning with a baseline measurement taken prior to the first introduction of liquids, and (2) in accord with the requested amendment, as the project progresses, evaluate the need to install supplemental LFG control devices, in the area of the bioreactor project in accordance with the NSPS for municipal landfills, 40 CFR part 60, subpart WWW. A copy of the County's proposed requested amendment was included in the FPA as Attachment IV. The County will undertake supplemental LFG response measures in accord with 40 CFR part 60, subpart WWW if methane surface emissions exceed 500 ppm or if significant odors from the test area are observed. The potential for surface emissions is likely to be greatest in the immediate area of liquids injection.

In addition, the County believes that there would be a reduced potential for LFG emissions at the landfill side slope because the slope is covered with an intermediate cap that consists of a vegetative layer over a two foot soil layer that has a permeability ranging from 10^{-4} to 10^{-5} centimeters per second. The existing LFG collection system for Cell 8 is designed to apply a continuous vacuum to the leachate collection pipe network under the waste in order to induce a pressure gradient to draw the LFG toward the collection network. Collected LFG is piped to an enclosed flare for destruction. If necessary, supplemental LFG collection and control may be implemented in the test area, based on results of quarterly methane surface emissions monitoring and observations of odors.

A. LFG Monitoring. Monitoring, record keeping and reporting requirements for LFG agreed to in the FPA signed by the County, EPA and MDE are contained in the Title V permit for the Landfill issued on August 29, 2001 pursuant to the CAA, 42 U.S.C. 7401 *et seq.* The Title V permit specifies that the LFG monitoring and reporting in the test area will be done according to the requirements of 40 CFR part 60, subpart WWW. The County will perform quarterly monitoring for surface emissions over the entire plateau area that includes the test area of Subcell 8.4. The plateau area measures approximately 180 feet by 300 feet and the test area is essentially centered on the plateau. Based on the results of the quarterly monitoring for surface emissions supplemental LFG monitoring and control may be required by the County's Title V permit,

including semi-annual testing for non-methane organic compounds and weekly testing at the well heads for methane, carbon dioxide, carbon monoxide, oxygen and nitrogen. Also, if the County undertakes such supplemental LFG collection measures, the County will continuously collect the LFG flow rate from Cell 8 and on a weekly basis determine the LFG flow rate in the plateau area of Subcell 8.4.

B. LFG Control. If any quarterly surface monitoring shows a surface methane concentration that exceeds 500 ppm over the test area plateau or if significant odors are found to be emanating from the test area, the County will take corrective actions (which may include installation and operation of supplemental LFG collection and control technology) as provided in 40 CFR 60.755. Such supplemental LFG collection and control technology may include either passive LFG collection technology (*i.e.* using candlestick flares independent of the existing active LFG collection system) or active LFG collection technology (*i.e.* connected to the existing active LFG collection system). In any event, the LFG collection and control measures (including any supplemental measures undertaken in the area of the Test Area) will be run continuously if sufficient gas is present to sustain combustion, and shall otherwise be operated in accordance with 40 CFR part 60, subpart WWW. If and when the County undertakes such supplemental LFG collection measures, the County will continuously collect the LFG flow rate from Cell 8 and on a weekly basis determine the LFG flow rate in the plateau area of Subcell 8.4.

5. Liquids Monitoring

Each injection device will be fed from a centrally located 6,500 gallon tank truck through a single hose connection. A flow meter will be installed to allow measurement of liquid flow to each injection device. Four control valves will be installed to allow independent flow regulation to each of the injection ports. A central feed location will be used to ease system operations and reduce truck traffic that may affect settlement rates. Finally, precipitation will be recorded via a rain gauge to allow for adjustments to the injection rate. As noted above, at no time will more than 30 centimeters (cm) of leachate be permitted to collect over the liner. The quantity of leachate, and supplemental storm water (if required), added back to the landfill will be measured throughout the life of the project. The County expects to measure recirculation quantities using flow meters installed on the leachate receptacle just prior to the distribution system piping and valves.

The leachate collection/drainage layer constructed in each subcell consists of two feet of high permeability sand over a geonet drainage layer. Due to the internal subcell slopes and high permeability of the drainage layer, the County expects that there will be very little pressure or ''head'' buildup on the liner notwithstanding the increased levels of liquids. As noted above, the leachate collection system is designed to maintain a depth of leachate over the liner at all locations within a subcell, significantly less than the prescribed maximum 30 cm depth in a MSWLF constructed with a composite liner under 40 CFR 258.28(a)(2)). Leachate recirculation will be suspended if there appears to be head build-up, and in any event the head would not be allowed to exceed 30 cm under today's proposed rule.

The primary liner system of the Landfill is underlain by a secondary liner and leachate collection system. Sumps are located at the low point of each subcell and are monitored for the depth of liquid on a continual basis. There are double risers extending about 200 feet from the sump in the primary leachate collection layer up to the toe of the side slopes of the Landfill. The double risers provide redundant access to the leachate collection layer. As needed and required, liquid in the sumps is collected and controlled as leachate. Samples are collected to evaluate the characteristics of the liquids. If the test results from the sampled liquid or the monitoring of the leachate level indicate that there is a potential leak in the primary liner system, then the need for a larger pump will be evaluated and the liquid level in the primary system will be further evaluated and monitored to minimize the liquid depth above the primary liner. The liner leakage rate will be evaluated and the leachate injection rate may be reduced, if necessary, to control the rate of flow into the secondary leachate collection system.

Since leachate is pumped from each subcell individually, during the proposed project the County intends to sample the leachate from Subcells 8.4 (test cell) and 8.6 (control cell) semi-annually for parameters that will help establish whether or not leachate quality is improving in Subcell 8.4.

6. Protection Against Landfill Fires

Fires in landfills are usually caused by poorly designed or operated active LFG collection systems that allow ambient air into the waste. For this project, the LFG collection system will be carefully operated to handle excess gas generated while minimizing the potential for landfill fires. The potential for landfill fires will also be minimized for this project since it is based on the anaerobic bioreactor concept. If quarterly monitoring for surface methane emissions triggers supplemental LFG controls, the County will test any Landfill gas extraction wells installed in the test area on a weekly basis for gases including: methane, carbon dioxide, carbon monoxide, oxygen and nitrogen. The County will carefully monitor for and manage the oxygen concentration in the LFG to reduce the potential occurrence of a landfill fire. The County, MDE and EPA acknowledge that a portion of the closed and capped Cell 5–6–7 has had a landfill fire in the past and have agreed to monitor and control the anaerobic bioreactor testing to ensure this does not occur as a result of this project.

C. What Kind of Liner Is Required by Current EPA Regulations?

Currently, the EPA's regulations outline two methods for complying with liner requirements for municipal solid waste landfills. The first method is a performance standard set forth at 40 CFR 258.40(a)(1). This standard allows installation of any liner configuration provided the liner design is approved by the director of an approved State (defined in 40 CFR 258.2) and the design ensures that certain constituent concentrations are not exceeded in the uppermost aquifer underlying the landfill facility at the point of compliance.

The second method is set forth at 40 CFR 258.40(a)(2) and (b). 40 CFR 258.40(b) specifies a liner design which consists of two components: (1) An upper component comprising a minimum of 30 mil flexible membrane liner (60 mil if High Density Polyethylene (HDPE) is used), and (2) a lower component comprising at least two feet of compacted soil with a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

D. How Were the Liners at the Landfill Constructed?

The liner in the test area at the Landfill was constructed to meet or exceed the performance standard set forth in 40 CFR 258.40(a)(1). The base liner system for each constructed Subcell in Cell 8 is a double synthetic system consisting of the following, from top to bottom:

1. 2-foot protective sand cover over geotextile filter;

2. Leachate collection geonet drainage layer;

3. 60-mil high density polyethylene (HDPE) geomembrane top liner;

4. Leakage detection geonet drainage layer;

5. 60-mil HDPE geomembrane bottom liner; and

6. 1.5-foot low permeability (1×10^{-7}, cm/s, demonstrated by construction QA/QC) soil subbase.

Attachment VI in the FPA contains a detailed drawing of the base liner system currently constructed in the subcells in Cell 8. This liner system exceeds the performance requirements of MDE and EPA for MSW landfills, and incorporates two geomembranes providing for leak detection, features typically associated with stricter hazardous waste landfill designs.

E. What Are the Environmental Benefits Expected Through This XL Project?

The expected environmental benefits of this XL project include: (1) Accelerated biodegradation of waste, resulting in increased space for new waste in the Landfill (air space) and therefore longer Landfill life; (2) decreased concentration of most leachate constituents; (3) reduced amount of leachate requiring pretreatment; (4) reduced amount of leachate that the Landfill discharges to the local wastewater treatment plant, with subsequent discharge of effluent to the Patuxent River, and (5) reduced post-closure care, maintenance and risk (since the controlled settlement of the solid waste will occur during Landfill operation, there will be lower potential for leachate migration into the subsurface environment, and more LFG will be produced during operation). Additional information on the potential environmental benefits of bioreactor landfills is discussed in Section III.B. and is available on EPA's Web site at *http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/bioreactors.htm* and at *http://www.epa.gov/ProjectXL/.*

To adequately measure the environmental and other benefits of the proposed bioreactor pilot project, the County will establish a baseline that records the environmental impacts of the Landfill without the proposed bioreactor project. Without the project, Subcell 8.4 would be filled until it reaches its capacity, and then covered. The remainder of the subcells in Cell 8 would also be filled until they reach capacity and Cell 8 will be closed and the County would develop Cell 9.

Without this project, it is assumed, Cell 8 would also continue to generate the same levels of leachate for disposal to the local Publicly Owned Treatment Works (POTW). Treatment of leachate outside the Landfill necessitates the use of equipment, chemicals and ultimately results in the discharge of effluent to surface water. If all the leachate is managed inside the Landfill there will be no discharge to surface water and it is expected to result in cost savings to the County.

The superior environmental performance for this XL Project would be measured using the baseline against the actual results of the project for the following areas: The amount of landfill settlement, the additional air space created in the Cell 8.4 and the amount and concentration of leachate disposed at the local POTW. Specific monitoring parameters are listed in the proposed rule following this preamble.

F. How Have Various Stakeholders Been Involved in This Project?

The County has a history of involving stakeholders in projects at its solid waste acceptance or disposal facilities. This philosophy has proved to be beneficial to all involved parties. The County has divided the stakeholders into three groups. The groups are identified as primary stakeholders, potential interested parties, and members of the general public.

The primary stakeholders are the regulatory agencies involved with solid waste disposal facilities or other activities at the Landfill. The primary stakeholders include:

- U.S. Environmental Protection Agency (EPA)
- Maryland Department of the Environment, Solid Waste Program
- Anne Arundel County Health Department, Environmental Health Bureau
- Anne Arundel County, Planning and Code Enforcement
- Anne Arundel County, Soil Conservation District

Other potentially interested stakeholders have expressed an interest in the project and have had some involvement in the project. It is not anticipated that all stakeholders would play an active and ongoing role in the project. If they do not actively participate in the project, they will be kept informed of the project's progress at appropriate milestones. Their input will be welcomed in verbal or written form.

In May of 2001, after the FPA was signed, the County sent newsletters to approximately 130 nearby residents and concerned citizens with information on the bioreactor testing under project XL.

During implementation of this XL project, the stakeholder involvement program agreed to in the FPA would ensure that: (1) Stakeholders are apprised of the status of project implementation; and (2) stakeholders have access to information sufficient to judge the success of this XL project. Anticipated stakeholder involvement during the term of the project may include other general public meetings to present periodic status reports, availability of data and other information generated. Anne Arundel County plans to convene periodic meetings for interested stakeholders to brief them on progress during the duration of the XL project. In addition to the reporting requirements of today's proposed rule, the FPA includes provisions whereby the County will make copies of project reports available to all interested parties.

A public file on this XL project has been maintained at the Web site throughout project development, and the EPA will continue to update it as the project is implemented. Additional information is available at EPA's Web site at URL *http://www.epa.gov/projectxl.*

G.How Long Will This Project Last and When Will It Be Complete?

As with all XL projects testing alternative environmental protection strategies, the term of this XL project is limited. Today's proposed rule would be in effect for seven (7) years. In the event that EPA determines that this project should be terminated before the end of the seven year period and that the site-specific rule should be rescinded, the Agency may withdraw this rule through a subsequent rulemaking. This will allow all interested persons and entities the opportunity to comment on the proposed termination and withdrawal of regulatory authority. In the event of an early termination of the project term, EPA or the State will establish an interim compliance period, not to exceed six months, such that the County will be returned to full compliance with the existing requirements of 40 CFR part 258.

The FPA allows any party to the agreement to withdraw from the agreement at any time before the end of the seven year period. It also sets forth several conditions that could trigger an early termination of the project, as well as procedures to follow in the event that EPA, the State or local agency seeks to terminate the project.

For example, an early conclusion will be warranted if the project's environmental benefits do not meet the Project XL goal for the achievement of superior environmental results. In

addition, new laws or regulations may become applicable during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL project.

H. Will This Project Result in Cost Savings and Paperwork Reduction?

EPA did not prepare an economic estimate of the cost of today's proposed rule or an estimate of any paperwork reduction. EPA notes, however, that the County volunteered for this pilot project which will affect only one facility and is expected to result in an overall cost savings by: Accelerating the decomposition of waste placed in Cell 8.4 of the Landfill, which is expected to extend the life of this cell and improving the quality and management of leachate generated at the landfill, both of which are expected to decrease leachate treatment and disposal costs.

V. What Regulatory Changes Are Being Proposed To Implement This Project?

A. Existing Liquids Restriction for MSWLFs (40 CFR 258.28)

This proposed site specific rule would grant regulatory relief from certain requirements of RCRA that restrict application of liquids in MSWLFs, because, as previously described, Subcell 8.4 of the Landfill was constructed with an alternative liner pursuant to 40 CFR 258.40(a)(1). When the FPA for this project was signed, RCRA regulations, 40 CFR 258.28(a) allowed bulk or non-containerized liquid waste to be added to a MSWLF only if the following two conditions were met:

—The liquids comprise household waste (other than septic waste), or leachate from the Landfill itself, or gas condensate derived from the Landfill, and

—The MSWLF has been built with a liner as prescribed in the design standard set forth in 40 CFR 258.40 (a)(2) (*i.e.*, not the performance standard set forth in 40 CFR 258.40(a)(1)).

Since then, EPA promulgated a site-specific rule for the Yolo County, CA, bioreactor landfill project under Project XL, which amended 40 CFR 258.28(a). The amendment allows bulk liquid wastes to be added to a MSWLF if, ''the MSWLF unit is a Project XL MSWLF and meets the applicable requirements of 40 CFR 258.41'' (66 FR 42441–42449, August 13, 2001). Therefore, the regulatory relief needed for the Anne Arundel County XL Project is a site-specific amendment to 40 CFR 258.41. With the exception of those specific provisions modified by this proposed rule, all other applicable existing and future regulatory requirements in part 258 and elsewhere continue to apply to the Anne Arundel County Millersville Landfill.

B. Proposed Site-Specific Rule

This proposed rule would allow the operator of the Landfill to add liquids, primarily consisting of leachate from the Landfill and possibly supplemental storm water (''liquids'') to a portion of Subcell 8.4 of the Landfill, as long as the maintenance, operational, monitoring and other requirements set forth in 40 CFR 258.41(d) are met. This proposed rule would add a new subsection to the rules in 40 CFR 258.41. New 40 CFR 258.41(d) would specifically apply to the Anne Arundel County Millersville Landfill, in Severn, Anne Arundel County, Maryland, and would allow liquids to be applied to a portion of Subcell 8.4 in this Landfill. This proposed rule would impose certain minimum monitoring, reporting, and control requirements on the County, which, among other things, would ensure that the project is protective of human health and the environment and facilitate EPA's evaluation of the project.

The CAA Title V Permit for the Landfill was signed by MDE on August 29, 2001. Monitoring, record keeping and reporting requirements for LFG previously agreed to in the FPA (Sections II. B. and III. G. and Tables 4 and 5) which was signed by the County, EPA and MDE are contained in the Title V permit for the Landfill. The Title V permit specifies that the LFG monitoring and reporting in the test area will be performed according to the requirements of 40 CFR part 60, subpart WWW. The County will perform quarterly monitoring for surface emissions over the entire plateau area that includes the test area of Subcell 8.4. The plateau area measures 180 feet by 300 feet and the test area is essentially centered on the plateau. Based on the results of the quarterly monitoring supplemental LFG monitoring and control may be required by the County's Title V permit, including semi-annual testing for non-methane organic compounds and weekly testing at the well heads for methane, carbon dioxide, carbon monoxide, oxygen and nitrogen. Also, if the County undertakes such supplemental LFG collection measures, the County will continuously collect the LFG flow rate from Cell 8 and on a weekly basis determine the LFG flow rate in the plateau area of Subcell 8.4.

Existing regulation allowing leachate recirculation over a composite liner (40 CFR 258.28(a)(2)) requires a leachate collection system as specified in 40 CFR 258.40(a)(2) to ensure that contaminant migration to the aquifer is controlled. (56 FR 50978–51056, Oct. 9, 1991). This proposed rule would also require that a leachate collection system (as described in 40 CFR 258.40(a)(2)) be in place in order for leachate to be recirculated in the Subcell 8.4, and the County would be required to ensure that the leachate collection systems maintains the leachate head over the liner at a depth of less than 30 cm in Subcell 8.4.

Today's proposed rule would not provide any regulatory flexibility with respect to monitoring requirements; rather it adds monitoring to that which would be required for this Landfill if it continued operating as a conventional MSWLF. In addition to the monitoring required in part 258, for example, the County would be required to monitor and report whether surface seeps are occurring and determine whether they are attributable to operation of the liquid application system; perform a semi-annual analysis of leachate quality in both test and control areas; and at least monthly, monitor the gas temperature at well heads. EPA believes this additional information will provide the necessary indicators of any increased risk to human health or the environment in a timely manner and will enable the County, MDE and/or EPA to take whatever steps are necessary, including suspension or termination of the project to reduce or eliminate any such risk. EPA also believes that this additional information will be valuable in assessing the benefits of bioreactor operation.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of this regulatory action. The Order defines ''significant regulatory'' action as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Because this proposed rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review under Executive Order 12866. In addition, after consultation OMB has determined that review of proposed site-specific rules under Project XL is not necessary.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* since it applies to only one facility. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), whenever an Agency is required to publish a notice for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require federal agencies to provide a statement of the factual basis for certifying that a proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will not have a significant impact on a substantial number of small entities because it affects only one facility, the Anne Arundel County Millersville Landfill, and it is not a small entity.

Based on the foregoing discussion, I hereby certify that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities. Consequently, the Agency has determined that preparation of a formal Regulatory Flexibility Analysis is unnecessary.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this proposed rule is applicable only to one facility in Maryland. EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this proposed rule does not contain a federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountability process that would ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

Today's proposal does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, nor on the distribution of powers and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's proposal will only affect one facility, providing regulatory flexibility applicable to this specific site. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountability process that would ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include

regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.'' Today's proposal does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, nor on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. EPA is currently unaware of any Indian tribes located in the vicinity of the facility. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potential effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It will not result in increased energy prices, increased cost of energy distribution, or an increased dependence on foreign supplies of energy.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA,'' Pub. L. 104–113, section 12(d) (15 U.S.C. 272 *note*) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. Today's proposal does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (February 11, 1994) is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). Potential environmental justice impacts are identified consistent with the EPA's Environmental Justice Strategy and the OSWER Environmental Justice Action Agenda.

Today's proposal applies to one facility in Maryland. Overall, no disproportional impacts to minority or low income communities are expected.

List of Subjects in 40 CFR Part 258

Environmental protection, Landfill, Solid waste.

Dated: May 7, 2003.

Christine Todd Whitman,

Administrator.

For the reasons set forth, part 258 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c), and 6949a(c).

Subpart D—Design Criteria

3. Amend § 258.41 to add a new paragraph (d) to read as follows:

§ 258.41 Project XL Bioreactor Landfill Projects.

* * * * *

(d) *Anne Arundel County, Millersville Landfill Requirements.* Paragraph (d) of this section applies solely to the Anne Arundel County, Millersville Landfill, owned and operated by the Anne Arundel County Department of Public Works, or its successors, located in Severn, Anne Arundel County, Maryland (''Landfill''). The Landfill is allowed to Landfill leachate and onsite storm water, hereinafter, ''liquid or liquids'', to a test area contained in portion of Subcell 8.4 of the Landfill under the following conditions:

(1) The operator of the Landfill shall maintain the liner underlying Subcell 8.4, which was designed and constructed with an alternative liner in accordance with § 258.40(a)(1), and a leachate collection system, in order to maintain the integrity of the liner system and keep it and the leachate collection system in good operating order. From top to bottom the base liner underlying the waste in Cell 8 consists of: 2-feet of sand cover, a geotextile filter, a leachate collection layer, a 60-mil high density polyethylene (HDPE) top liner, a leakage detection layer; a 60-mil HDPE bottom liner and 1.5-feet of a low permeability soil subbase. The operator of the Landfill shall ensure that the addition of any liquids does not result in an increased leakage rate, and does not result in liner or waste slippage, or otherwise compromise the integrity of the Landfill and its liner system, as determined by the Director of the Maryland Department of the Environment (State Director). In addition, the leachate collection system shall be operated, monitored and maintained to ensure that less than 30 cm depth of leachate is maintained over the liner.

(2) The operator of the Landfill shall ensure that the concentration values listed in Table 1 of § 258.40 are not exceeded in the uppermost aquifer at the relevant point of compliance for Cell 8 of the Landfill, as specified by the State Director, under section § 258.40(d).

(3) The operator of the Landfill shall monitor and report whether surface seeps are occurring and determine whether they are attributable to operation of the liquid application system. EPA and the Maryland Department of the Environment (MDE) shall be notified in the semi-annual report of the occurrence of any seeps.

(4) The operator of the Landfill shall determine on a semi-annual basis the leachate quality by analyzing samples of the Landfill leachate, from the sumps in Subcell 8.4 (where the test area is located) and 8.6 (where the control area is located), for the following parameters: dissolved oxygen, dissolved solids, biochemical oxygen demand, chemical oxygen demand, organic carbon, nutrients (ammonia, nitrogen, total nitrogen, and total phosphorus), nitrate, nitrite, total alkalinity, ortho phosphate, total suspended solids, cyanide, chloride, total dissolved solids, RCRA hazardous metals, volatile organic compounds and semi-volatile organic compounds by Method SW–846. The operator of the Landfill shall collect weekly samples of Landfill leachate, from the sumps in Subcell 8.4 and Subcell 8.6, and analyze them for the following parameters: pH and conductivity. The depth of liquid in the sumps shall be monitored on a continual basis and the leachate flow rate shall be calculated on a monthly basis.

(5) The operator of the Landfill shall determine on a semi-annual basis: The total quantity of leachate collected in Subcell 8.4 and Subcell 8.6; the total quantity of liquids applied in the test areas; any changes in the application rate or quantity and any leachate taken for offsite disposal.

(6) Prior to the addition of any liquid to the Landfill, the operator of the Landfill shall perform an initial characterization of the liquid and notify EPA and MDE of the liquid proposed to be added. The parameters for the initial characterization of liquids shall be the same as the semi-annual parameters for the Landfill leachate specified in paragraph (d)(4) of this section. The operator shall annually test all liquids, other than leachate, added to the Landfill for the semi-annual parameters specified in paragraph (d)(4) of this section and compare these results to the initial characterization.

(7) The operator of the Landfill shall ensure that Subcell 8.4 is operated in such a manner so as to prevent any landfill fires from occurring. If quarterly monitoring for surface methane emissions triggers supplemental LFG controls, the County will test any Landfill gas extraction wells installed in the test area on a weekly basis for LFG flow rate and gases including: methane, carbon dioxide, carbon monoxide, oxygen and nitrogen. The County will carefully monitor for and manage the oxygen concentration in the LFG to reduce the potential occurrence of a landfill fire.

(8) The operator of the Landfill shall determine on a semi-annual basis the settlement of the test area based on measurements of the elevation of monuments installed for this purpose. The operator of the Landfill shall determine on a annual basis the settlement of the test and control areas based on topographic surveys.

(9) The operator of the Landfill shall monitor the frequency of odor complaints during and after liquid application events. EPA and MDE shall be notified of the occurrence of any odor complaints in the semi-annual report.

(10) The operator of the Landfill shall report to the EPA Regional Administrator and the State Director on the information described in paragraphs (d)(1) through (9) of this section on a semi-annual basis. The first report is due within 6 months after [THE EFFECTIVE DATE OF THE FINAL RULE]. These reporting provisions shall remain in effect for the duration of the project term.

(11) Application of this site-specific rule to the Landfill is conditioned upon the Landfill being subject to an approved Title V permit issued pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.* (CAA) that provides for compliance with the requirements of 40 CFR Part 60, Subpart WWW in the plateau area of Subcell 8.4 that is impacted by the recirculation activities.

(12) This section will remain in effect until [DATE SEVEN YEARS FROM EFFECTIVE DATE OF FINAL RULE]. By [DATE SEVEN YEARS FROM EFFECTIVE DATE OF FINAL RULE], the Landfill must return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this section. If EPA Region 3's Regional Administrator, the State of Maryland and Anne Arundel County agree to an amendment of the project term, the parties must enter into an amended or new Final Project Agreement for any such amendment.

(13) The authority provided by this section may be terminated before the end of the 7 year period in the event of noncompliance with the requirements of paragraph (d) of this section. The determination by the EPA Region 3's Regional Administrator that the project has failed to achieve the expected level of environmental performance, or the promulgation of generally applicable requirements that apply instead of this section may also result in termination of the authority provided by this section. In the event of early termination EPA, in consultation with the State of Maryland, will determine an interim compliance period to provide sufficient time for the owner or operator to return the Landfills to compliance with the regulatory requirements which would have been in effect absent the authority provided by this section. The interim compliance period shall not exceed six months.

[FR Doc. 03–11909 Filed 5–12–03; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 68, No. 92
Tuesday, May 13, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Secretarial Disaster Designations

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection in support of the Secretarial disaster designation process. The information collection is needed to identify disaster areas and establish eligible FSA counties for the purpose of making emergency loans available to eligible and qualified farmers and ranchers.

DATES: Comments must be received on or before July 14, 2003, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Diane Sharp, Director, Production, Emergencies and Compliance Division, to Farm Service Agency, USDA, Mail Stop 0517, 1400 Independence Avenue, SW., Washington, DC 20250–0517 and to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments also may be submitted by e-mail to: *Diane_Sharp@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Lynn Tjeerdsma, Branch Chief, (202) 720–6602.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Disaster Assistance Program.

OMB Number: 0560–0170.

Expiration Date of Approval: June 30, 2003.

Type of Request: Extension with no revision.

Abstract: The information collection is necessary for FSA to effectively administer the regulations relating to identifying disaster areas for the purpose of making emergency loans available to qualified and eligible farmers and ranchers who have suffered weather-related physical or production losses or both. Before making emergency loans available to farmers and ranchers, the collected information is used to determine whether the disaster areas meet the qualifying loss criteria in order to be considered as an eligible FSA County.

Estimate of Burden: Average 0.420 hour per response.

Type of Respondents: Farmers and Ranchers.

Estimated Annual Number of Respondents: 2,454.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,032.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed at Washington, DC, on May 6, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–11894 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—The Integrity Profile (TIP)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Food and Nutrition Service (FNS) to request Office of Management and Budget (OMB) review of The Integrity Profile data collection and reporting system.

DATES: Comments on this notice must be received or postmarked by July 14, 2003.

ADDRESSES: Send comments and requests for copies of this information collection to: Patricia N. Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Patty Davis, (703) 305–2728.

SUPPLEMENTARY INFORMATION:

Title: The Integrity Profile (TIP).

OMB Number: 0584–0401.

Expiration Date: 6–30–04.

Type of Request: Revisions to the Currently Approved Collection.

Abstract: State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) are required by 7 CFR 246.12(j)(5) to submit to FNS an annual summary of the results of their vendor monitoring efforts in order to provide Congress, senior FNS officials, as well as the general public, assurance that every reasonable effort is being made to ensure integrity in the WIC Program. Since 1989, WIC Program State agencies have been required to submit The Integrity Profile (TIP) data annually. FNS compiles the data to produce a national report, which shows the level of monitoring and investigation conducted by WIC State agencies to detect and eliminate, or substantially reduce, vendor fraud and abuse. Most State agencies download the data from their automated system and transmit it electronically to FNS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 43.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: The Program Director of each WIC State agency, which is generally a State Health Department or an Indian Tribal Organization official.

Estimated Number of Respondents: 88 respondents.

Estimated Number of Responses Per Respondent: One.

Estimated Total Annual Burden on Respondents: 3,827.50 hours.

Dated: April 30, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03–11893 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Wednesday, June 11, 2003, at the Best Western Icicle Inn, 505 Highway 2, Leavenworth, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting we will discuss noxious weed management and prevention, Northwest Forest Plan project monitoring, and updates on implementation of the Northwest Forest Plan. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: May 5, 2003.

Paul Hart,

Designated Federal Official, Okanogan and Wenatchee National Forests.

[FR Doc. 03–11876 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability (NOFA) Inviting Applications for Rural Cooperative Development Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $6.5 million in competing Rural Cooperative Development Grant (RCDG) funds for fiscal year (FY) 2003. Of this amount, approximately $1.5 million will be reserved for applications that focus on assistance to small, minority producers through their cooperative businesses. This action will comply with legislation which authorizes grants for establishing and operating centers for rural cooperative development. The intended effect of this notice is to solicit applications for FY 2003 and award grants before September 1, 2003.

DATES: The deadline for receipt of an application is June 27, 2003. Applications received after that date will not be considered. Applications should be sent to the Rural Development State offices. State offices will forward the applications to the National office by July 14, 2003.

ADDRESSES: Entities wishing to apply for assistance should contact their USDA Rural Development State Office to receive further information and copies of the application package. A list of state offices is provided at the end of this Notice.

FOR FURTHER INFORMATION CONTACT: Inquiries are directed to the applicable USDA Rural Development State Office. Information is also available on the RBS Web site at *www.rurdev.usda.gov/rbs/coops/rcdg.htm*. You may also contact Marc Warman, Program Leader, Cooperative Services, Rural Business-Cooperative Service, U.S. Department of Agriculture, Stop 3250, Room 4016, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250–3250. Telephone (202) 690–1431.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements continued in this regulation were previously approved by the Office of Management and Budget (OMB) and were assigned OMB control number 0570–0006.

General Information

Rural Cooperative Development Grants (RCDG) are authorized by section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932). Regulations are contained in 7 CFR part 4284, subpart F. The primary objective of the RCDG program is to improve the economic condition of rural areas through cooperative development. The program is administered through USDA Rural Development State Offices acting on behalf of RBS.

Section 310B(e) of the Consolidated Farm and Rural Development Act was amended by Public Law 107–171 (Mar 13, 2002) to modify the matching requirement required of RCDG grant applicants that are ''1994 Institutions'' (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Pub. L. 103–382). 1994 Institutions are not required to provide non-Federal financial support (matching funds) greater than 5 percent of the grant awarded. In the case of all applicants, preference points will be awarded where applicants commit to providing greater than the minimum 25 percent matching contribution. A current list of 1994 Institutions may be obtained from RBS.

Grant Selection Criteria

Grants will be awarded on a competitive basis to nonprofit corporations and institutions of higher education based on the following selection criteria. The priorities described in this paragraph will be used by RBS to rate applications. RBS review

of applications will include the complete application package submitted to the Rural Development State Office. Points will be ranked as compared with other applications on hand. Points will be awarded to each factor on a 5, 4, 3, 2, 1 basis depending on the applicant's ranking compared to other applicants. Each factor will receive equal weight.

Preference will be given to applications that:

(1) Demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

(2) Demonstrate previous expertise in providing technical assistance to cooperatives in rural areas;

(3) Demonstrate the ability to assist in the retention of business, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

(4) Demonstrate the ability to create horizontal linkages among cooperative businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

(5) Commit to providing technical assistance and other services to underserved and economically distressed rural areas of the United States;

(6) Commit to providing greater than a 25 percent matching contribution (5 percent in the case of 1994 Institutions) with private funds and in-kind contributions;

(7) Demonstrate transferability or demonstration value to assist rural areas outside of project area; and

(8) Demonstrate that any cooperative development activity is consistent with positive environmental stewardship.

Fiscal Year 2003 Application Submission

Applications must include a clear statement of the goals and objectives of the project and a plan which describes the proposed project as required by the statute and 7 CFR part 4284, subpart F. Each application received in the State Office will be reviewed to determine if the application is consistent with the eligible purposes outlined in 7 CFR part 4284, subpart F. Applications without supportive data to address selection criteria will not be considered. All submissions must conform to the required standard Times New Roman, 12 point font.

Since the primary objective of the cooperative center concept is to provide technical assistance services, including feasibility analysis, applications that do not propose development or continuation of the cooperative center concept will not be considered. Also, applications that focus on assistance to only one cooperative within the project area will not be considered. To enhance the long-term viability of cooperative development centers, strengthening of technical assistance capacity within new and existing centers is strongly encouraged.

Copies of 7 CFR part 4284, subpart F, will be provided to any interested applicant by making a request to the Rural Development State office or RBS National office.

Applications must be completed and submitted to the State Rural Development Office as soon as possible, but no later than June 27, 2003. Applications received after this date will not be considered. Electronic submission of proposals as an email attachment is strongly encouraged.

Each application must contain the information required under 7 CFR 4284.528(a) and (b)(1) (copies of which may be obtained from the Agency) in addition to the following information which is required under 7 CFR 4284.528(b)(2):

(1) A detailed Table of Contents containing page numbers for each component of the application.

(2) A project summary of 250 words or less on a separate page. This page must include the title of the project and the names of the primary project contacts and the applicant organization, followed by the summary. The summary should be self-contained and should describe the overall goals, relevance of the project, and a listing of all organizations involved in the project. The project summary should immediately follow the Table of Contents.

(3) A separate one-page information sheet which lists each of the eight evaluation criteria followed by the page numbers of all relevant material and documentation contained in the application which supports that criteria. This page should immediately follow the project summary.

(4) Description of the applicant's experience with similar projects, pursuant to 7 CFR 4284.528(a)(2)(vii). Applicants who have received funding under the Rural Cooperative Development Grant program in Fiscal Years 2001 or 2002 must provide a summation, not to exceed three pages, of progress and results for all projects funded fully or partially by the RCDG program in those years. This summary should include the status of cooperative businesses organized and all eligible grant purpose activities listed under 7 CFR 4284.515. The summary should immediately follow the page described above in item (3) documenting the location of evaluation criteria supporting material.

(5) A work plan that describes the specific tasks to be completed using grant and matching funds, pursuant to 7 CFR 4284.528(b)(1). The work plan should describe how customers will be identified (7 CFR 4284.528(a)(2)(vi)), key personnel to be involved (7 CFR 4284.528(a)(2)(vii) and the evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations (7 CFR 4284.528(a)(2)(xi)). A detailed budget must be submitted as part of the work plan and is required pursuant to 7 CFR 4284.528(a)(2)(iv). The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the operation of the Center and allocate these costs to each of the tasks to be performed in the work plan (7 CFR 4284.528(a)(2)(iii)). Matching funds as well as grant funds must be accounted for in the budget and estimate of total costs. The work plan, budget and estimate of costs, should not exceed 10 pages.

(6) The eight grant selection criteria in 7 CFR 4284.528(a)(2)(xiii)(G) must be addressed individually and in specific detail. This discussion should be in narrative form, should not exceed 40 pages, and should include all citations to supporting documentation. Do not include the referenced supporting documentation in the application package until and unless requested to do so by USDA.

Applications requesting Federal funds in excess of $350,000 will not be considered.

The National Office will score applications based on the grant selection criteria contained in 7 CFR part 4284, subpart F, and will select awardees subject to the availability of funds and the applicant's satisfactory submission of a formal application and related materials in accordance with subpart F. Entities submitting applications that are selected for awards will be invited by the Rural Development State office to submit all referenced supporting documentation and other required materials prior to September 1. As part of the award process, the State Office will review the referenced supporting documentation. Monitoring officials from the State Office must be satisfied as to the completeness and validity of any referenced documentation before grant funds will be obligated. It is anticipated

that formal grant awards will be made by September 30, 2003.

In the event that the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or de-obligate the award, if acceptable modifications are not submitted by the awardees within 15 working days from the date the application is returned to the applicant. Any modifications must be within the scope of the original application.

All applicants and grants must be in compliance with the requirements of 7 CFR parts 3015 and 3019.

Dated: May 5, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Services.

List of Rural Development State Offices

Note: Telephone numbers shown are not toll free.

Alabama

State Director, USDA Rural Development, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400, *steve.pelham@al.usda.gov.*

Alaska

State Director, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7705, *nhayes@rdmail.rural.usda.gov.*

Arizona

State Director, USDA Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012, (602) 280–8700, *eddie.browning@az.usda.gov*

Arkansas

State Director, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200, *john.allen@ar.usda.gov.*

California

State Director, USDA Rural Development, 430 G Street, Agency 4169, Davis, CA 95616, (530) 792–5800, *paul.venosdel@ca.usda.gov.*

Colorado

State Director, USDA Rural Development, 655 Parfet Street, Lakewood, CO 80215, (720) 544–2903, *gigi.dennis@co.usda.gov.*

Delaware-Maryland

State Director, USDA Rural Development, 4607 South DuPont Highway, Camden, DE 19934, (302) 697–4300, *marlene.elliott@de.usda.gov.*

Florida/Virgin Islands

State Director, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338–3400, *charles.clemons@fl.usda.gov.*

Georgia

State Director, USDA Rural Development, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601, (706) 546–2162, *stone.workman@ga.usda.gov.*

Hawaii

State Director, USDA Rural Development, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380, *lorraine.shin@hi.usda.gov.*

Idaho

State Director, USDA Rural Development, 9173 West Barnes Drive, Suite A1, Boise, ID 83709, (208) 378–5600, *mike.field@id.usda.gov.*

Illinois

State Director, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6200, *Douglas.wilson@il.usda.gov.*

Indiana

State Director, USDA Rural Development, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100, *Robert.white@in.usda.gov.*

Iowa

State Director, USDA Rural Development, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663, *nancy.orth@ia.usda.gov.*

Kansas

State Director, USDA Rural Development, 1303 S.W. First American Place, Suite 100, Topeka, KS 66604, (785) 271–2700, *chuck.banks@ks.usda.gov.*

Kentucky

State Director, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300, *ken.slone@ky.usda.gov.*

Louisiana

State Director, USDA Rural Development, 3727 Government Street, Alexandria, LA 71302, (318) 473–7920, *Michael.taylor@la.usda.gov.*

Maine

State Director, USDA Rural Development, 967 Illinois Avenue, Suite 4, Bangor, ME 04402, (207) 990–9106, *m.aube@me.usda.gov.*

Massachusetts/Rhode Island/Connecticut

State Director, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002, (413) 253–4300 *david.tutle@ma.usda.gov.*

Michigan

State Director, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5200, *Harry.brumer@mi.usda.gov.*

Minnesota

State Director, USDA Rural Development, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7800 *steve.wenzel@mn.usda.gov.*

Mississippi

State Director, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–4316, *nick.walters@ms.usda.gov.*

Missouri

State Director, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976, *greg.branum@mo.usda.gov.*

Montana

State Director, USDA Rural Development, 900 Technology Blvd., Suite B, Bozeman, MT 59718, (406) 585–2580, *tim.ryan@mt.usda.gov.*

Nebraska

State Director, USDA Rural Development, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5551, *jim.barr@ne.usda.gov.*

Nevada

State Director, USDA Rural Development, 1390 South Curry Street, Carson City, NV 89703, (775) 887–1222 *larry.smith@nv.usda.gov.*

New Jersey

State Director, USDA Rural Development, 5th Floor North Tower, Suite 500, 8000 Midlantic Drive, Mount Laurel, NJ 08054, (856) 787–7700, *Andrew.law@nj.usda.gov.*

New Mexico

State Director, USDA Rural Development, 6200 Jefferson Street, NE, Room 255, Albuquerque, NM 87109, (505) 761–4950, *jeff.condrey@nm.usda.gov.*

New York

State Director, USDA Rural Development, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6400, *Patrick.brennan@ny.usda.gov.*

North Carolina

State Director, USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000, *john.cooper@nc.usda.gov.*

North Dakota

State Director, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, Bismarck, ND 58502–1737, (701) 530–2037, *jane.grant@nd.usda.gov.*

Ohio

State Director, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215, (614) 255–2400, *randall.hunt@oh.usda.gov.*

Oklahoma

State Director, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074, (405) 742–1000, *brent.kisling@ok.usda.gov.*

Oregon

State Director, USDA Rural Development, 101 SW Main Street, Suite 1410, Portland, OR 97204, (503) 414–3300, *lynn.schoessler@or.usda.gov*.

Pennsylvania

State Director, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299, *byron.ross@pa.usda.gov*.

Puerto Rico

State Director, USDA Rural Development State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, Puerto Rico 00918, (787) 766–5095, *jose.otero@pr.usda.gov*.

South Carolina

State Director, USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1007, Columbia, SC 29201, (803) 765–5163 *charles.sparks@sc.usda.gov*.

South Dakota

State Director, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1100, *lynn.jensen@sd.usda.gov*.

Tennessee

State Director, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203, (615) 783–1300, *peggy.rose@tn.usda.gov*.

Texas

State Director, USDA Rural Development, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9700, *bryan.daniel@tx.usda.gov*.

Utah

State Director, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4320, *jack.cox@ut.usda.gov*.

Vermont/New Hampshire

State Director, USDA Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6000, *marie.ferris@vt.usda.gov*.

Virginia

State Director, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1550, *joe.newbill@va.usda.gov*.

Washington

State Director, USDA Rural Development, 1835 Black Lake Blvd., SW, Suite B, Olympia, WA 98512, (360) 704–7740, *misha.divens@wa.usda.gov*.

West Virginia

State Director, USDA Rural Development, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505, (304) 284–4860, *jenny.phillips@wv.usda.gov*.

Wisconsin

State Director, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7600, *frank.frassetto@wi.usda.gov*.

Wyoming

State Director, USDA Rural Development, 100 East B Street, Room 1005, Casper, WY 82601, (307) 261–6300, *john.cochran@wy.usda.gov*.

[FR Doc. 03–11830 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by July 14, 2003.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: Request for Release of Lien and/or Approval of Sale.

OMB Control Number: 0572–0041.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Utilities Service (RUS) makes mortgage loans and loan guarantees to electric and telecommunications systems to provide and improve electric and telecommunications service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.,*) (RE Act). All current and future capital assets of RUS borrowers are ordinarily mortgaged or pledged to the Federal Government as security for RUS loans. Assets include tangible and intangible utility plant, non-utility property, construction in progress, and materials, supplies, and equipment normally used in a telecommunications system. The RE Act and the various security instruments, *e.g.,* the RUS mortgage, limit the rights of a RUS borrower to dispose of its capital assets. The RUS Form 793, Request for Release of Lien and/or Approval of Sale, allows the telecommunications program borrower to seek agency permission to sell some of its assets. The form collects detailed information regarding the proposed sale of a portion of the borrower's system. RUS telecommunications borrowers fill out the form to request RUS approval in order to sell capital assets.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.75 hours per response.

Respondents: Business or other for-profit; not-for-profit organizations.

Estimated Number of Respondents: 75.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 206.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. FAX: (202) 720–4120.

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Dated: May 2, 2003.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 03–11825 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–15–P

AMERICAN BATTLE MONUMENTS COMMISSION

SES Performance Review Board

AGENCY: American Battle Monuments Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the ABMC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Theodore Gloukhoff, Director of Personnel and Administration, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, Virginia, 22201–3367, Telephone Number: (703) 696–6908.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards.

The following have been designated as regular members of the American Battle Monuments Commission SES Performance Review Board:

Mr. Donald Basham, Chief, Engineering and Construction Division, Directorate of Civil Works, U.S. Army Corps of Engineers

Mr. Stephen Coakley, Director of Resource Management, U.S. Army Corps of Engineers

Ms. Patricia Rivers, Chief, Environmental Division, Directorate of Military Programs, U.S. Army Corps of Engineers

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. 03–11821 Filed 5–12–03; 8:45 am]

BILLING CODE 6120–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rocky Mountain Regional Office Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Rocky Mountain Regional Office Advisory Committee to the Commission will convene at 12 p.m. and adjourn at 1:15 p.m. on Monday, May 12, 2003. The purpose of the conference call is to discuss individual Advisory Committee activities and plans that followed the January 9, 2003 meeting in Albuquerque.

This conference call is available to the public through the following call-in number: 1–800–659–8294, access code 16702460. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or made over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over landline connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting, John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049), by 4 p.m. on Friday May 9, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–11883 Filed 5–12–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Arkansas Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 3 p.m. (CTD) on Thursday May 15, 2003. The purpose of the conference call is to plan future projects and have a discussion of the hate crime bill that recently failed.

This conference call is available to the public through the following call-in number: 1–888–532–5130, access code: 16753157. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or made over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over landline connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Farella E. Robinson, of the Central Regional Office, 913–551–1400 (TDD 913–551–1414), by 4 p.m. on Wednesday May 14, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–11884 Filed 5–12–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Maine Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 3:30 p.m. on Thursday, May 15, 2003. The purpose of the conference call is to plan for future SAC activities.

This conference call is available to the public through the following call-in number: 1–800–556–3005, access code: 16536732. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or made over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over landline connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Aonghas St. Hilaire of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116), by 4 p.m. on Wednesday 14, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–11885 Filed 5–12–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Honey From Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of partial rescission of antidumping duty administrative review.

SUMMARY: On January 22, 2003, the Department of Commerce (the Department) published in the **Federal Register** (68 FR 3009) a notice announcing the initiation of the administrative review of the antidumping duty order on honey from Argentina. The period of review (POR) is May 11, 2001, to November 30, 2002. This review has now been partially rescinded with respect to Compania Apicola Argentina S.A. (CAA) and Mielar S.A. (Mielar) because all parties requesting the review withdrew their request.

EFFECTIVE DATE: May 13, 2003.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall or Donna Kinsella, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–1398 or (202) 482–0194, respectively.

Scope of the Review

The merchandise under review is honey from Argentina. For purposes of this review, the products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise under review is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) purposes, the Department's written description of the merchandise under this order is dispositive.

Background

On December 30, 2002, CAA and Mielar requested an administrative review of the antidumping duty order (*See Notice of Antidumping Duty Order: Honey from Argentina,* 66 FR 63672 (December 10, 2001)) on honey from Argentina in response to the Department's notice of opportunity to request a review published in the **Federal Register**. On December 31, 2002, the American Honey Producers Association and the Sioux Honey Association (collectively petitioners) requested an administrative review of Mielar S.A. On January 22, 2003, the Department initiated the review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 68 FR 3009 (January 22, 2003).

On March 18, 2003, CAA submitted a withdrawal of request for review stating that it did not have any sales that entered into the United States during the POR. On March 26, 2003, Mielar submitted a letter of withdrawal from the proceeding citing lack of experience since Mielar was not represented by legal counsel. On April 4, 2003, Mielar obtained legal counsel and requested that its request for review be reinstated as it was not aware of the possible consequences of its withdrawal at the time of the March 26, 2003, letter. On April 15, 2003, petitioners submitted a withdrawal of their request for review of Mielar. On April 15, 2003, Mielar submitted a withdrawal of its request for review. The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. Respondents and petitioners withdrew their requests for review within the 90-day deadline, in accordance with 19 CFR 351.213(d)(1). As a result, we have accepted the withdrawal requests. Therefore, we are rescinding this review of CAA and Mielar of the antidumping duty order on honey from Argentina covering the period May 11, 2001, through November 30, 2002.

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4) of the Department's regulations.

Dated: May 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–11903 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050203B]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application to modify an existing scientific research/enhancement permit (1097) and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit modification from Cressey and Associates in El Cerrito, CA (1097). The permit modification would affect three Evolutionarily Significant Units (ESUs) of salmonids identified in Supplementary Information following. This document serves to notify the public of the availability of the permit modification application for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the permit application must be received no later than 5 p.m. Pacific Standard Time on June 12, 2003.

ADDRESSES: Written comments on the modification request should be sent to Daniel Logan, Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404 6528 (ph: 707 575 6053, fax: 707 578 3435). Comments may also be sent via fax. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review by appointment at the Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404 6528 (ph: 707 575 6053, fax: 707 578 3435) and at the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 3226 (301 713 1401).

FOR FURTHER INFORMATION CONTACT: Daniel Logan at phone number 707–575–6053, or e-mail: *dan.logan@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531 1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222 226).Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to the following three threatened salmonid ESUs: threatened Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*), threatened CCC steelhead (*O. mykiss*), and threatened California Coastal chinook salmon (*O. tshawytscha*).

Modification Request Received

Cressey and Associates requests a modification to permit 1097 for takes of juvenile ESA-listed coho salmon, steelhead, and chinook salmon associated with a study assessing the impacts to salmonids of a proposed summer dam on Austin Creek, a tributary of the Russian River in Sonoma County, CA. Cressey and Associates has proposed using electrofishing and snorkel surveys. Cressey and Associates is requesting non-lethal take of 10 juvenile CCC coho salmon, 500 juvenile CCC steelhead and 5 juvenile California Coastal chinook salmon for this project. Presently, permit 1097 authorizes take of adult and juvenile CCC coho salmon, Southern Oregon/Northern California Coasts coho salmon, and Southern California steelhead associated with various scientific research projects in CA. This requested modification would add intentional takes of threatened CCC coho salmon, threatened CCC steelhead, and threatened California Coastal chinook salmon to Cressey and Associates' permit.

Dated: May 8. 2003.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–11915 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050203A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research/enhancement permit (1435) and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit from Lisa Thompson, Ph.D. at UC Davis, CA (1435). The permit would affect the Southern Oregon/Northern California Coasts coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU). This document serves to notify the public of the availability of the permit application for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the permit application must be received no later than 5 p.m. Pacific Standard Time on June 12, 2003.

ADDRESSES: Written comments on the permit request should be sent to Diana Hines, Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (ph: 707–575–6057, fax: 707–578–3435). Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review by appointment at the Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (ph: 707–575–6057, fax: 707–578–3435) and at the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301 713 1401).

FOR FURTHER INFORMATION CONTACT: Diana Hines at phone number 707–575–6057, or e-mail: *diana.hines@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to the threatened Southern Oregon/Northern California Coasts (SONCC) coho salmon (*Oncorhynchus kisutch*) ESU.

Permit Request Received

Lisa Thompson, Ph.D. requests a permit for takes of juvenile ESA-listed SONCC coho salmon associated with studies of presence, distribution and fish habitat use in the Shasta River, CA. Lisa Thompson, Ph.D. requests non-lethal take of 952 juvenile SONCC coho salmon for this project.

Dated: May 8, 2003.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–11916 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030502111–3111–01; I.D. 031103C]

RIN 0648–ZB43

Financial Assistance for Environmental Education Projects in Connecticut and Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The purpose of this notice is to invite the public to submit proposals for available funding to implement environmental education projects in the following two areas of interest: ''Meaningful'' Outdoor Experiences for Students and Professional Development in the Area of Environmental Education for Teachers. Potential recipients may submit separate proposals for each area. Funds are available to institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments. This notice describes the conditions under which project proposals will be accepted and criteria under which proposals will be evaluated for funding consideration. Depending upon the level of Federal involvement in individual projects, selected recipients will enter into either a cooperative agreement or a grant.

DATES: Applications must be received by 5 p.m. eastern daylight savings time on June 12, 2003. Applications received after that time will not be considered for funding. Applications will not be accepted electronically nor by facsimile machine submission.

ADDRESSES: You can obtain an application package from and send completed proposals to: Seaberry J. Nachbar, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403. You can also obtain the application package from the NOAA Chesapeake Bay Office Education Home Page *http://noaa.chesapeakebay.net/education.htm*.

FOR FURTHER INFORMATION CONTACT: Seaberry J. Nachbar, Education Coordinator, NOAA Chesapeake Bay Office, telephone: (410) 267–5664, or e-mail: *seaberry.nachbar@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

The Fish and Wildlife Coordination Act, as amended, at 16 USC 661, authorizes the Secretary of Commerce to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, and in minimizing damages from overabundant species. Under 15 U.S.C. 1540, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to enter into cooperative agreements and other financial agreements with any nonprofit organization to aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs.

B. Catalog of Federal Domestic Assistance (CFDA)

The projects to be funded are in support of the Chesapeake Bay Studies (CFDA 11.457), under the Chesapeake Bay Watershed Education and Training Program.

C. Program Description

As a Federal agency that is committed to the stewardship of our Nation's coastal and marine resources, NOAA can and should play a major role in creating an environmentally literate and informed citizenry. The NOAA Bay Watershed Education and Training (B-WET) Program was established in 2002 to improve the understanding of environmental stewardship of students and teachers. The B-WET Program has an opportunity to create a population that is knowledgeable about the environment by supporting organizations that use the environment as the context for learning. Using the environment, a bay, stream, or the surrounding landscape, provides the opportunity to teach students about their connection to the greater environment. This has been shown to increase a student's academic achievement performance, enthusiasm and engagement for learning, and encourages greater pride and ownership in the environment. The environment can provide a platform upon which educators can create a curriculum that interests learners and revitalizes teachers. Environmentally educated individuals can become effective future workers, problem solvers, and thoughtful community leaders and participants.

II. Areas of Interest

Proposals should address one of the two areas of interest: (1) ''Meaningful'' Outdoor Experiences for Students; or (2) Professional Development in the Area of Environmental Education for Teachers. Potential recipients may submit separate proposals for each area.

A. ''Meaningful'' Outdoor Experiences

The B-WET Program seeks proposals for projects that provide opportunities for students in Connecticut or Rhode Island (K through 12) to participate in a ''meaningful'' outdoor experience. The environment provides an excellent opportunity for education. In many cases, tidal and non-tidal waters and the surrounding landscape can provide ''hands-on'' laboratories where students can see, touch, and learn about the environment. In other cases, the environment can be brought alive to the classroom through a strong complement of outdoor and classroom experiences. The environment can provide a genuine, locally relevant source of knowledge that can be used to help advance student learning skills and problem-solving abilities across the entire school curriculum. The B-WET Program is strongly committed to expanding the knowledge and participation of a diverse student population in marine and environmental education. This population my include, for example, disabled or minority students, or students who are from rural communities in Connecticut or Rhode Island.

Proposals submitted under this area should address the following elements and types of activities:

1. *''Meaningful'' outdoor experiences should make a direct connection to the marine or estuarine environment*: Experiences should demonstrate to students that local actions can impact the greater water environment(i.e., Connecticut's Long Island Sound and Rhode Island's Narragansett Bay). Experiences do not have to be water-based activities as long as there is an intentional connection made to water quality, the watershed, and the larger marine or estuarine system, outdoor experiences may include terrestrial activities.

2. *''Meaningful'' outdoor experiences are hands-on and investigative or project-oriented*: Experiences should include activities where questions, problems, and issues are investigated through data collection, observation, and hands-on activities. Experiences should stimulate observation, motivate

critical thinking, develop problem-solving skills, and instill confidence in students. Experiences should not be limited to tours, museum visits, simulations, demonstrations, or ''nature'' walks but should encourage the student to assist, share, communicate, and connect directly with the outdoors. Experiences can include the following kinds of activities: (1) Investigative or experimental design activities where students or groups of students use equipment, take measurements, and make observations for the purpose of making interpretations and reaching conclusions; (2) Project-oriented experiences, such as restoration, monitoring, and protection projects, that are problem solving in nature and involve many investigative skills; and (3) Social, economic, historical, and archaeological questions, problems, and issues that are directly related to Rhode Island or Connecticut peoples and cultures. These experiences should involve fieldwork, data collection, and analysis.

3. *''Meaningful'' outdoor experiences are part of a sustained activity*: Experiences should consist of more than just the outdoor experience. Though an outdoor experience itself may occur as one specific event, occurring in 1 day, the total duration leading up to and following the experience should involve a significant investment of instructional time. An experience should consist of three general parts, not necessarily occurring in this order- a preparation phase; an outdoor phase; and an analysis, reporting phase. Projects should provide teachers with the support, materials, resources, and information needed to conduct these three parts. The preparation phase should focus on a question, problem, or issue and involve students in discussions about it. The action phase should include one or more outdoor experiences sufficient to conduct the project, make the observations, or collect the data required. The reflection phase should refocus on the question, problem, or issue; analyze the conclusions reached; evaluate the results; and assess the activity and the learning.

4. *''Meaningful≥ outdoor experiences are an integral part of the instructional program*: Experiences should not be considered ancillary, peripheral, or enrichment only, but clearly part of what is occurring concurrently in the classroom. The outdoor experiences should be part of the division curriculum and be aligned with state learning standards (i.e., Connecticut or Rhode Island). Experiences should make appropriate connections among subject areas and reflect an integrated approach to learning. Experiences should occur where and when they fit into the instructional sequence.

5. *Projects demonstrate partnerships*: Project proposals should include partners involving any of the eligible applicants. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula.

B. Professional Development in the Area of Environmental Education for Teachers

The B-WET Program seeks proposals for projects that provide K-through–12 teachers in Connecticut or Rhode Island opportunities for professional development in the area of environmental education. As the purveyors of education, teachers can ultimately make meaningful environmental education experiences for students by weaving together classroom and field activities within the context of their curriculum and of current critical issues that impact the environment. Systematic, long-term professional development opportunities will reinforce a teacher's ability to teach, inspire, and lead young people toward thoughtful stewardship of our natural resources. The B-WET Program is strongly committed to expanding the knowledge and participation of a diverse teacher population in marine and environmental education. This population may include, for example, disabled or minority teachers, or teachers who are from rural communities in Connecticut or Rhode Island.

Proposals submitted under this area should address the following elements and types of activities:

1. *Professional development courses follow the teaching of a ''meaningful'' outdoor experience and encourage the teacher to conduct an experience in his/her classroom*: Professional development courses for teachers should ultimately benefit the student. Projects should be structured so that the teacher learns how to conduct a ''meaningful'' outdoor experience in his/her classroom (see section II (A) for details on ''meaningful'' outdoor experiences). Projects should provide teachers with the background information, materials and resources needed to conduct an experience. Projects can include implementation grants for teachers to carry out a ''meaningful'' outdoor experience in their classrooms.

2. *Projects involve external sharing and communication*: Projects should promote peer-to-peer sharing and emphasize the need for external sharing and communication. Projects should include a mechanism that encourages teachers to share their experiences with other teachers and with the environmental education community.

3. *Projects demonstrate partnerships*: Project proposals should include partners involving any of the eligible applicants. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula.

III. Funding

A. Funding Availability

This solicitation announces that approximately $250,000 will be made available for environmental education projects in Connecticut and Rhode Island in FY 2003. About $125,000 will be for proposals that provide opportunities for students (K through 12) in Connecticut or Rhode Island to participate in a ''Meaningful'' Outdoor Experience. Of the amount available for this priority area, about $75,000 will be awarded to eligible applicants in Connecticut and about $50,000 will be awarded to eligible applicants in Rhode Island. About $125,000 will be for proposals that provide opportunities for Professional Development in the area of Environmental Education for Teachers in Connecticut or Rhode Island. Of this amount, $75,000 will be available to eligible applicants in Connecticut and $50,000 will be available to eligible applicants in Rhode Island.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless

approved by the Grants Officer as part of the terms when the award is made.

B. Award Limits

The B-WET Program anticipates that typical project awards for ''Meaningful'' Outdoor Experiences for Students and Professional Development in the Area of Environmental Education for Teachers will range from $20,000 to $50,000. Proposals will be considered for funds greater than the specified ranges.

C. Funding Instrument

Whether the funding instrument is a grant or a cooperative agreement will be determined by the amount of NOAA's involvement in the project. A cooperative agreement will be used if NOAA shares responsibility for management, control, direction, or performance of the project with the recipient. Specific terms regarding substantial involvement will be contained in special award conditions.

D. Cost-sharing Requirements

The NOAA strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the final selection process. Priority selection will be given to proposals that propose cash rather than in-kind contributions.

IV. Instructions for Application

A. Eligible Applicants

Eligible applicants for both areas of interest include state, local and Indian tribal governments, institutions of higher education, other non-profit organizations and commercial organizations. These may include K-through–12 public and independent schools and school systems and community-based organizations.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in undeserved areas. The NOAA encourages proposals involving any of the above institutions.

B. Project Award Period

The B-WET Program will make awards for a period of one year. Projects should begin no 1ater than October 1, 2003.

C. Format and Requirements

Proposals must be complete and must follow the format described in this notice. Potential recipients may submit separate proposals for each area of interest (i.e., ''Meaningful'' Outdoor Experiences for Students or Professional Development in the Area of Environmental Education for Teachers). Applicants should not assume prior knowledge on the part of the NOAA as to the relative merits of the project described in the application.

1. *Proposal format*: Applicants are required to submit one signed original and two copies of the full proposal (submission of five additional hard copies is encouraged to expedite the review process, but it is not required). Proposal format must be in at least a 10–point font, double-spaced, unbound, and one-sided. Brevity will assist reviewers and program staff in dealing effectively with proposals. Therefore, the Project Description may not exceed 15 pages. Tables and visual materials, including charts, graphs, maps, photographs, and other pictorial presentations are not included in the 15–page limitation. Appendices may be included but must not exceed a total of 10–pages in length. Appendices may include information such as curriculum, resumes, and/or letters of endorsement. Additional informational material will be disregarded. Proposals must include the following information:

a. *Project summary (1–page limit)*: It is recommended that each proposal contain a summary of no more than one page that provides the following:

(1) Organization title.

(2) Address, telephone number, and email address of applicant.

(3) Area of interest for which you are applying (i.e., ''Meaningful'' Outdoor Experiences for Students; Professional Development in the Area of Environmental Education for Teachers).

(4) Project title.

(5) Project duration (1–year project period beginning to end dates, starting on the first of the month and ending on the last day of the month).

(6) Principal Investigator(s) (PI).

(7) Project objectives.

(8) Summary of work to be performed (include number of teachers and/or students that will be involved in your project).

(9) Total Federal funds requested.

(10) Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are project-related cash or in-kind.

(11) Total project cost.

b. *Project description (15–page limit)*: Describe precisely what your project will achieve why, how, who, and where.

(1) Why: Explain the purpose of your project. This should include a clear statement of the work to be undertaken and include the following:

-Explain which area of interest your project addresses (i.e., (1)''Meaningful'' Outdoor Experiences for Students;(2) Professional Development in the Area of Environmental Education for Teachers).

-Specifically describe how your project addresses each of the elements and types of activities relating to the project's particular area of interest (i.e., Section II.A for the ''Meaningful'' Outdoor Experience for Students area or Section II.B for the Professional Development in the area of Environmental Education for Teachers area).

(2) How: Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished. Explain your strategy, objectives, activities, delivery methods, and accomplishments to establish for reviewers that you have realistic goals and objectives and that you will use effective methods to achieve them. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and target completion dates.

-Project Objectives: Objectives should be simple and understandable; as specific and quantitative as possible; clear as to the ''what and when,'' but should avoid the ''how and why.'' Projects should be accomplishment oriented and identify specific performance measures.

(3) Who: Explain who will conduct the project. Include the following:

-List each organization, cooperator, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution.

-Identify the target audience and demonstrate an understanding of the needs of that audience (include specifically how many students and/or teachers are involved in your project).(4) Where: Give a precise location of the project and area(s) to be served.

c. *Need for government financial assistance*: Demonstrate the need for assistance. Explain why other funding sources cannot fund all the proposed work.

d. *Benefits or results expected*: Identify and document the results or benefits to be derived from the proposed activities.

e. *Project valuation*: Explain how you will ensure that you are meeting the goals and objectives of your project. Evaluation plans may be quantitative and/or qualitative and may include, for

example, evaluation tools, observation, or outside consultation.

f. *Total project costs*: Total project costs are the amount of funds required to accomplish what is proposed in the Project Description and include contributions and donations.

Explain the calculations and provide a narrative to support specific items or activities, such as personnel/salaries, fringe benefits, travel, equipment, supplies, contract costs, and indirect costs. The budget detail and narrative submitted with the application should match the dollar amounts on all required forms. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. Please Note the following funding restrictions:

-The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government, see Administrative Requirements, Section VI, B.

-Funds for salaries and fringe benefits may be requested only for those personnel who are directly involved in implementing the proposed project and whose salaries and fringe benefits are directly related to specific products or outcomes of the proposed project. NOAA strongly encourages applicants to request reasonable amounts of funding for salaries and fringe benefits to ensure that your proposal is competitive.

g. *Letters of support from partners*: Letters of support should be included for partners that are making a significant contribution to the project, if applicable.

Federal forms: Applicants may obtain required Federal forms from the NOAA Chesapeake Bay Office Web site (see ADDRESSES) or from the NOAA Grants Web site: *http://www.rdc.noaa.gov/grants/index.html*.

1. *Cover sheet*: All applicants must use Office of Management and Budget (OMB) Standard Form 424 (revised 7/97) as the cover sheet for each project.

2. *Budget form*: All applicants must use a Standard Budget Form (SF–424A) required for all Federal grants.

3. *Form CD–511*: All applicants must submit a CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''.

4. *SF–424B*: All applicants must submit a SF–424B, ''Assurances of Non-Construction Programs''.

5. *CD–346 ''Applicant for Funding Assistance''*: Required for the following individuals- Sole Proprietorship, Partnerships, Corporations, Joint Venture, Non-profit Organizations.

D. Evaluation Criteria

1. *Project Design/Conceptual Approach*: Projects will be evaluated on your conceptual approach and how you have integrated this into the project design. In particular, the extent to which you have addressed the project elements and activities under Sections II.A, 1–4 and/or II.B, 1–2, and have complied with the instructions in IV.C.1.b. Project description, c. Need for government financial assistance, and d. Benefits or results expected will be evaluated under this criterion. (50 points)

2. *Project evaluation*: Projects will be evaluated based on your explanation of how you will ensure that you are meeting the goals and objectives of your project, as required in Section IV.C.1.e, so that results may be reported in performance reports. (15 points)

3. *Projects demonstrate partnerships*: Project proposals will be evaluated based on the degree to which they include partners involving any of the eligible applicants, as provided in Sections II.A.5 or II.B.3, and whether letters of support from partners have been included, as required in Section IV.C.1.g. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula. (15 points)

4. *Justification and allocation of the proposed budget*: Proposals will be evaluated on the reasonableness, allowability, and allocability of the proposed budget, as set forth in Section IV.C.1.f. (20 points)

V. Selection Procedures

A. Initial Evaluation of the Applications

NOAA will review all applications to assure that they meet all the requirements of this announcement, including eligibility and relevance to the Bay Watershed Education and Training (B-WET) Program.

B. Technical Review

Applications meeting the requirements of this solicitation will undergo an external technical review. This review will normally involve individuals in the field of environmental education from both NOAA and non-NOAA organizations. Proposals will be scored based on the evaluation criteria as defined in Section IV.D. Reviewers will be asked to review independently and to provide a score and comments on each proposal. No consensus advice will be given by the technical reviewers.

C. Funding Decision

Scores for each proposal will then be averaged and the proposals will be ranked numerically for funding based upon the technical review scores. After the proposals have been ranked, the Chief of the NOAA Chesapeake Bay Office, in consultation with Program staff, will determine which projects will be recommended for funding.

Numerical ranking will be the primary consideration for deciding which of the proposals will be selected for funding. However, duplication with other projects, geographic diversity, program goals, and matching leverage, may also be taken into consideration in making the final selections. Priority selection will be given to proposals that contribute cash rather than in-kind funding to their projects. Accordingly, numerical ranking is not the sole factor in deciding which new proposals will be selected for funding. A written justification will be prepared for any recommendations for funding that fall outside the ranking order, or any cost adjustments. The exact amount of funds awarded to each project will be determined in pre-award negotiations among the applicant, the Grants Office, and the NCBO staff. Potential grantees should not initiate projects in expectation of Federal funding until an award document signed by an authorized NOAA official has been received.

Unsuccessful applications will be kept on file in the Program office for a period of at least 12 months, then destroyed.

VI. Administrative Requirements

A. Pre-award Notification Requirements

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** Notice published October 30, 2002 (67 FR 66109), is applicable to this solicitation.

B. Indirect Cost Rates

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the Department of Commerce will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost

rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct costs for this Program. Applicants with indirect costs above 25 percent may use the amount above the 25 percent level as cost sharing. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

C. Allowable Costs

Funds awarded cannot necessarily pay for all the costs that the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the Office of Management and Budget Circulars A–122, ''Cost Principles for Nonprofit Organizations''; A–21, ''Cost Principles for Education Institutions''; and A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.''

Classification

This action has been determined to be ''not significant'' for purposes of Executive Order 12866. Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Under section 553 (a)(2) of the Administrative Procedure Act, prior notice and an opportunity for public comment are not required for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for the purposes of the Regulatory Flexibility Act.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and CD–346 has been approved by OMB under the respective control numbers 0348–0044, 0348–0044, 0348–0040, and 0605–0001.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

Dated: May 7, 2003.

John Oliver,

Deputy Assistant Administrator for Operations for Fisheries, National Marine Fisheries Service.

[FR Doc. 03–11913 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030502110–3110–01; I.D. 031103B]

RIN 0648–ZB42

Financial Assistance for Environmental Education Projects in the Monterey Bay (CA) Watershed

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The purpose of this notice is to invite the public to submit proposals for available funding to implement environmental education projects in the following two areas of interest: ''Meaningful'' Outdoor Experiences for Students in the Monterey Bay Watershed and Professional Development in the Area of Environmental Education for Teachers in the Monterey Bay Watershed. Potential recipients may submit separate proposals for each area. Funds are available to K-through–12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments. This notice describes the conditions under which project proposals will be accepted and criteria under which proposals will be evaluated for funding consideration. Depending upon the level of Federal involvement in individual projects, selected recipients will enter into either a cooperative agreement or a grant.

DATES: Applications must be received by 5 p.m. eastern daylight savings time on June 12, 2003. Applications received after that time will not be considered for funding. Applications will not be accepted electronically nor by facsimile machine submission.

ADDRESSES: You can obtain an application package from, and send completed proposals to: Seaberry J. Nachbar, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403. You can also obtain the application package from the NOAA Chesapeake Bay Office Education Home Page *http://noaa.chesapeakebay.net/education.htm*.

FOR FURTHER INFORMATION CONTACT: Seaberry J. Nachbar, Education Coordinator, NOAA Chesapeake Bay Office, telephone: (410) 267–5664, or e-mail: *seaberry.nachbar@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

The Fish and Wildlife Coordination Act, as amended, at 16 USC 661, authorizes the Secretary of Commerce to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, and in minimizing damages from overabundant species. Under 15 U.S.C. 1540, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to enter into cooperative agreements and other financial agreements with any nonprofit organization to aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs.

B. Catalog of Federal Domestic Assistance (CFDA)

The projects to be funded are in support of the Chesapeake Bay Studies (CFDA 11.457), under the Chesapeake Bay Watershed Education and Training Program.

C. Program Description

As a Federal agency that is committed to the stewardship of our Nation's coastal and marine resources, NOAA can and should play a major role in creating an environmentally literate and informed citizenry. The NOAA Bay Watershed Education and Training (B-WET) Program was established in 2002 to improve the understanding of environmental stewardship of students and teachers. The B-WET Program has an opportunity to create a population that is knowledgeable about the environment by supporting organizations that use the environment as the context for learning. Using the environment, a bay, stream, or the surrounding landscape, provides the opportunity to teach students about their connection to the greater

environment. This has been shown to increase a student's academic achievement performance, enthusiasm and engagement for learning, and encourages greater pride and ownership in the environment. The environment can provide a platform upon which educators can create a curriculum that interests learners and revitalizes teachers. Environmentally educated individuals can become effective future workers, problem solvers, and thoughtful community leaders and participants.

II. Areas of Interest

Proposals should address one of the two areas of interest: (A) ''Meaningful'' Outdoor Experiences for Students; or (B) Professional Development in the Area of Environmental Education for Teachers. Potential recipients may submit separate proposals for each area.

A. ''Meaningful'' Outdoor Experiences

The B-WET Program seeks proposals for projects that provide opportunities for students (K through 12) in the Monterey Bay (CA) watershed to participate in a ''meaningful'' outdoor experience. The environment provides an excellent opportunity for education. In many cases, tidal and non-tidal waters and the surrounding landscape can provide ''hands-on'' laboratories where students can see, touch, and learn about the environment. In other cases, the environment can be brought alive to the classroom through a strong complement of outdoor and classroom experiences. The environment can provide a genuine, locally relevant source of knowledge that can be used to help advance student learning skills and problem-solving abilities across the entire school curriculum. The B-WET Program is strongly committed to expanding the knowledge and participation of a diverse student population in marine and environmental education. This population may include, for example, disabled or minority students, or students who are from rural communities in the Monterey Bay (CA) watershed.

Proposals submitted under this area should address the following elements and types of activities:

1. *''Meaningful'' outdoor experiences should make a direct connection to the marine or estuarine environment:* Experiences should demonstrate to students that local actions can impact the greater water environment(i.e., Monterey Bay). Experiences do not have to be water-based activities as long as there is an intentional connection made to water quality, the watershed, and the larger ecological system, outdoor experiences may include terrestrial activities.

2. *''Meaningful'' outdoor experiences are hands-on and investigative or project-oriented:* Experiences should include activities where questions, problems, and issues are investigated through data collection, observation, and hands-on activities. Experiences should stimulate observation, motivate critical thinking, develop problem-solving skills, and instill confidence in students. Experiences should not be limited to tours, museum visits, simulations, demonstrations, or ''nature'' walks but should encourage the student to assist, share, communicate, and connect directly with the outdoors. Experiences can include the following kinds of activities: (1) Investigative or experimental design activities where students or groups of students use equipment, take measurements, and make observations for the purpose of making interpretations and reaching conclusions; (2) Project-oriented experiences, such as restoration, monitoring, and protection projects, that are problem solving in nature and involve many investigative skills; and (3) Social, economic, historical, and archaeological questions, problems, and issues that are directly related to California peoples and cultures. These experiences should involve fieldwork, data collection, and analysis.

3. *''Meaningful'' outdoor experiences are part of a sustained activity:* Experiences should consist of more than just the outdoor experience. Though an outdoor experience itself may occur as one specific event, occurring in 1 day, the total duration leading up to and following the experience should involve a significant investment of instructional time. An experience should consist of three general parts, not necessarily occurring in this order- a preparation phase; an outdoor phase; and an analysis, reporting phase. Projects should provide teachers with the support, materials, resources, and information needed to conduct these three parts. The preparation phase should focus on a question, problem, or issue and involve students in discussions about it. The action phase should include one or more outdoor experiences sufficient to conduct the project, make the observations, or collect the data required. The reflection phase should refocus on the question, problem, or issue; analyze the conclusions reached; evaluate the results; and assess the activity and the learning.

4. *''Meaningful'' outdoor experiences are an integral part of the instructional program:* Experiences must be clearly part of what is occurring concurrently in the classroom. The outdoor experiences should be part of the division curriculum and be aligned with the California academic learning standards. Experiences should make appropriate connections among subject areas and reflect an integrated approach to learning. Experiences should occur where and when they fit into the instructional sequence.

5. *Projects demonstrate partnerships:* Project proposals should include partners involving any of the eligible applicants. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula.

B. Professional Development in the Area of Environmental Education for Teachers

The B-WET Program seeks proposals for projects that provide K-through–12 teachers in the Monterey Bay (CA) watershed opportunities for professional development in the area of environmental education. As the purveyors of education, teachers can ultimately make meaningful environmental education experiences for students by weaving together classroom and field activities within the context of their curriculum and of current critical issues that impact the environment. Systematic, long-term professional development opportunities will reinforce a teacher's ability to teach, inspire, and lead young people toward thoughtful stewardship of our natural resources. The B-WET Program is strongly committed to expanding the knowledge and participation of a diverse teacher population in marine and environmental education. This population may include, for example, disabled or minority teachers, or teachers who are from rural communities in the Monterey Bay (CA) watershed.

Proposals submitted under this area should address the following elements and types of activities:

1. *Professional development courses follow the teaching of a ''meaningful'' outdoor experience and encourage the teacher to conduct an experience in his/her classroom:* Professional development courses for the teacher should ultimately benefit the student. Projects should be structured so that the

teacher learns how to conduct a ''meaningful'' outdoor experience in his/her classroom (see Section II (A) for details on ''meaningful'' outdoor experiences). Projects should provide teachers with the background information, materials and resources needed to conduct an experience. Proposals may include implementation grants for the teachers to carry out a ''meaningful'' outdoor experience in their classrooms.

2. *Projects involve external sharing and communication:*Projects should promote peer-to-peer sharing and emphasize the need for external sharing and communication. Projects should include a mechanism that encourages teachers to share their experiences with other teachers and with the environmental education community.

3. *Projects demonstrate partnerships:* Project proposals should include partners involving any of the eligible applicants. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula.

III. Funding

A. Funding Availability

This solicitation announces that approximately $250,000 will be made available for environmental education projects in the Monterey Bay (CA) watershed in FY 2003. About $125,000 will be for proposals that provide opportunities for students (K through 12) in the Monterey Bay (CA) watershed to participate in a ''Meaningful'' Outdoor Experience. About $125,000 will be for proposals that provide opportunities for Professional Development in the area of Environmental Education for Teachers in the Monterey Bay (CA) watershed.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

B. Award Limits

The B-WET Program anticipates that typical project awards for ''Meaningful'' Outdoor Experiences for Students and Professional Development in the Area of Environmental Education for Teachers will range from $10,000 to $50,000. Proposals will be considered for funds greater than the specified ranges.

C. Funding Instrument

Whether the funding instrument is a grant or a cooperative agreement will be determined by the whether there is substantial NOAA involvement in the project. A cooperative agreement will be used if NOAA shares responsibility for management, control, direction, or performance of the project with the recipient. Specific terms regarding substantial involvement will be contained in special award conditions.

D. Cost-sharing Requirements

The NOAA strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the final selection process. Priority selection will be given to proposals that propose cash rather than in-kind contributions.

IV. Instructions for Application

A. Eligible Applicants

Eligible applicants for both areas of interest include state, local and Indian tribal governments, institutions of higher education, other non-profit organizations and commercial organizations. These may include K-through–12 public and independent schools and school systems and community-based organizations.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in undeserved areas. The NOAA encourages proposals involving any of the above institutions.

B. Project Award Period

The B-WET Program will make awards for a period of one year. Projects should begin no later than October 1, 2003.

C. Format and Requirements

Proposals must be complete and must follow the format described in this notice. Potential recipients may submit separate proposals for each area of interest (i.e., ''Meaningful'' Outdoor Experiences for Students or Professional Development in the Area of Environmental Education for Teachers). Applicants should not assume prior knowledge on the part of the NOAA as to the relative merits of the project described in the application.

1. *Proposal format:* Applicants are required to submit one signed original and two copies of the full proposal (submission of five additional hard copies is encouraged to expedite the review process, but it is not required). Proposal format must be in at least a 10–point font, double-spaced, unbound, and one-sided. Brevity will assist reviewers and program staff in dealing effectively with proposals. Therefore, the Project Description may not exceed 15 pages. Tables and visual materials, including charts, graphs, maps, photographs, and other pictorial presentations are not included in the 15–page limitation. Appendices may be included but must not exceed a total of 10–pages in length. Appendices may include information such as curriculum, resumes, and/or letters of endorsement. Additional informational material will be disregarded. Proposals must include the following information:

a. Project summary (1–page limit): It is recommended that each proposal contain a summary of no more than one page that provides the following:

(1) Organization title.

(2) Address, telephone number, and email address of applicant.

(3) Area of interest for which you are applying (i.e., ''Meaningful'' Outdoor Experiences for Students; Professional Development in the Area of Environmental Education for Teachers).

(4) Project title.

(5) Project duration (1 year project period beginning to end dates, starting on the first of the month and ending on the last day of the month).

(6) Principal Investigator(s) (PI).

(7) Project objectives.

(8) Summary of work to be performed (include number of teachers and/or students that will be involved in your project).

(9) Total Federal funds requested.

(10) Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are cash or in-kind.

(11) Total project cost.

b. Project description (15–page limit): Describe precisely what your project

will achieve why, how, who, and where.(1) Why: Explain the purpose of your project. This should include a clear statement of the work to be undertaken and include the following:

-Explain which area of interest your project addresses (i.e., (1)''Meaningful'' Outdoor Experiences for Students;(2) Professional Development in the Area of Environmental Education for Teachers).

-Specifically describe how your project addresses each of the elements and types of activities relating to the project's particular area of interest (i.e., Section II.A for the ''Meaningful'' Outdoor Experience for Students area or Section II.B for the Professional Development in the area of Environmental Education for Teachers area).

(2) How: Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished. Explain your strategy, objectives, activities, delivery methods, and accomplishments to establish for reviewers that you have realistic goals and objectives and that you will use effective methods to achieve them. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and target completion dates.

-Project Objectives: Objectives should be simple and understandable; as specific and quantitative as possible; clear as to the ''what and when,'' but should avoid the ''how and why.'' Projects should be accomplishment oriented and identify specific performance measures.

(3) Who: Explain who will conduct the project. Include the following:

-List each organization, cooperator, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution.

-Identify the target audience and demonstrate an understanding of the needs of that audience (include specifically how many students and/or teachers are involved in your project).

(4) Where: Give a precise location of the project and area(s) to be served.

c. *Need for government financial assistance:* Demonstrate the need for assistance. Explain why other funding sources cannot fund all the proposed work.

d. *Benefits or results expected:* Identify and document the results or benefits to be derived from the proposed activities.

e. *Project Evaluation:* Explain how you will ensure that you are meeting the goals and objectives of your project. Evaluation plans may be quantitative and/or qualitative and may include, for example, evaluation tools, observation, or outside consultation.

f. *Total project costs:* Total project costs are the amount of funds required to accomplish what is proposed in the Project Description and include contributions and donations.

Explain the calculations and provide a narrative to support specific items or activities, such as personnel/salaries, fringe benefits, travel, equipment, supplies, contract costs, and indirect costs. The budget detail and narrative submitted with the application should match the dollar amounts on all required forms. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. Please Note the following funding restrictions:

-The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal Government, see Administrative Requirements, Section VI, B.

-Funds for salaries and fringe benefits may be requested only for those personnel who are directly involved in implementing the proposed project and whose salaries and fringe benefits are directly related to specific products or outcomes of the proposed project. NOAA strongly encourages applicants to request reasonable amounts of funding for salaries and fringe benefits to ensure that your proposal is competitive.

g. *Letters of support from partners:* Letters of support should be included for partners that are making a significant contribution to the project, if applicable.

Federal forms: Applicants may obtain required Federal forms from the NOAA Chesapeake Bay Office Web site (see **ADDRESSES**) or from the NOAA Grants Web site: *http://www.rdc.noaa.gov/grants/index.html*.

1. Cover sheet: All applicants must use Office of Management and Budget (OMB) Standard Form 424 (revised 7/97) as the cover sheet for each project.

2. Budget form: All applicants must use a Standard Budget

Form (SF–424A) required for all federal grants.

3. Form CD–511: All applicants must submit a CD–511,

''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''.

4. SF–424B: All applicants must submit a SF–424B, ''Assurances of Non-Construction Programs''.

5. CD–346 ''Applicant for Funding Assistance'': Required for the following individuals- Sole Proprietorship, Partnerships, Corporations, Joint Venture, Non-profit Organizations.

D. Evaluation Criteria

1. *Project Design/Conceptual Approach:* Projects will be evaluated on your conceptual approach and how you have integrated this into the project design. In particular, the extent to which you have addressed the project elements and activities under Sections II.A, 1 4 and/or II.B, 1 2, and have complied with the instructions in IV.C.1.b. *Project description*, c. *Need for government financial assistance*, and d. *Benefits or results expected* will be evaluated under this criterion. (50 points)

2. *Project evaluation:* Projects will be evaluated based on your explanation of how you will ensure that you are meeting the goals and objectives of your project, as required in Section IV.C.1.e, so that results may be reported in performance reports. (15 points)

3. *Projects demonstrate partnerships:* Project proposals will be evaluated based on the degree to which they include partners involving any of the eligible applicants, as provided in Sections II.A.5 or II.B.3, and whether letters of support from partners have been included, as required in Section IV.C.1.g. Partnerships refers to the forming of a collaborative working relationship between two or more organizations. The B-WET Program strongly encourages applicants to partner with schools and/or school systems. All partners should be actively involved in the project, not just supply equipment or curricula. (15 points)

4. *Justification and allocation of the proposed budget:* Proposals will be evaluated on the reasonableness, allowability, and allocability of the proposed budget, as set forth in Section IV.C.1.f. (20 points)

V. Selection Procedures

A. Initial Evaluation of the Applications

NOAA will review all applications to assure that they meet all the requirements of this announcement, including eligibility and relevance to the Bay Watershed Education and Training (B-WET) Program.

B. Technical Review

Applications meeting the requirements of this solicitation will undergo an external technical review. This review will normally involve individuals in the field of environmental education from both NOAA and non-NOAA organizations. Proposals will be scored based on the evaluation criteria as defined in Section

IV.D. Reviewers will be asked to review independently and to provide a score and comments on each proposal. No consensus advice will be given by the technical reviewers.

C. Funding Decision

Scores for each proposal will then be averaged and the proposals will be ranked numerically for funding based upon the technical review scores. After the proposals have been ranked, the Chief of the NOAA Chesapeake Bay Office, in consultation with the Superintendent of the Monterey Bay National Marine Sanctuaries and Program staff, will determine which projects will be recommended for funding.

Numerical ranking will be the primary consideration for deciding which of the proposals will be selected for funding. However, duplication with other projects, geographic diversity, program goals, and the cost share contribution may also be taken into consideration in making the final selections. Priority selection will be given to proposals that contribute cash rather than in-kind funding to their projects. Accordingly, numerical ranking is not the sole factor in deciding which proposals will be selected for funding. A written justification will be prepared for any recommendations for funding that fall outside the ranking order. The exact amount of funds awarded to each project will be determined in pre-award negotiations among the applicant, the Grants Office, and the Program staff. Potential grantees should not initiate projects in expectation of Federal funding until an award document signed by an authorized NOAA official has been received.

Unsuccessful applications will be kept on file in the Program office for a period of at least 12 months, then destroyed.

VI. Administrative Requirements

A. Pre-award Notification Requirements

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** Notice published October 30, 2002 (67 FR 66109), is applicable to this solicitation.

B. Indirect Cost Rates

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the Department of Commerce will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct costs for this Program. Applicants with indirect costs above 25 percent may use the amount above the 25 percent level as cost sharing. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

C. Allowable Costs

Funds awarded cannot necessarily pay for all the costs that the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the Office of Management and Budget Circulars A–122, ''Cost Principles for Nonprofit Organizations''; A–21, ''Cost Principles for Education Institutions''; and A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.''

Classification

This action has been determined to be ''not significant'' for purposes of Executive Order 12866. Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Under section 553 (a)(2) of the Administrative Procedure Act, prior notice and an opportunity for public comment are not required for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for the purposes of the Regulatory Flexibility Act.

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Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

Dated: May 7, 2003.

John Oliver,

Deputy Administrative Assistant for Operations for Fisheries, National Marine Fisheries Service.

[FR Doc. 03–11912 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.021127290–3113–02; I.D. 033103C]

RIN 0648–ZB44

Financial Assistance for Research and Development Projects in the Gulf of Mexico and Off the U.S. South Atlantic Coastal States; Marine Fisheries Initiative (MARFIN)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of solicitation for applications.

SUMMARY: The MARFIN program provides financial assistance for research and development projects that optimize the use of fisheries in the Gulf of Mexico and off the South Atlantic States of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socio-economic assessment, management and conservation, selected harvesting methods, and fish handling and processing.

DATES: We must receive your application by close of business (5 p.m. eastern standard time on June 27, 2003. Applications received after that time will not be considered for funding. The earliest start date of awards is about 200 days after the date of publication of this notice. Applicants should consider this processing time in developing requested start dates for their applications.

ADDRESSES: You can obtain an application package from, and send your completed applications(s) to: National Marine Fisheries Service, State/Federal Liaison office, 9721 Executive Center Drive N., St. Petersburg, FL 33702. You may also obtain the application package from the

MARFIN Home Page at: *http://caldera.sero.nmfs.gov/grants/grants.htm.*

FOR FURTHER INFORMATION CONTACT: Ellie Francisco Roche, Chief, State/Federal Liaison Office at 727–570–5324.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

MARFIN is a competitive Federal assistance program that funds projects seeking to optimize research and development benefits from U.S. marine fishery resources through cooperative efforts involving the best research and management talents to accomplish priority activities. Projects funded under MARFIN provide answers for fishery needs covered by the NMFS Strategic Plan, available from the Southeast Regional Office (see **ADDRESSES**), particularly those goals relating to: rebuilding over-fished marine fisheries, maintaining currently productive fisheries, and integrating conservation of protected species and fisheries management. Funding priorities for MARFIN are formulated from recommendations received from non-Federal scientific and technical experts and from NMFS' research and operations officials.

Your proposal must address one of the funding priorities listed below as they pertain to federally managed species or species relevant to Federal fisheries management. If you select more than one priority, you should list first on your application the priority that most closely reflects the objectives of your proposal.

Highest consideration is given to funding projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries; improving the understanding of factors affecting recruitment success; and/or generating increased values and recreational opportunities for fisheries. Projects are evaluated as to the likelihood of achieving these objectives, with consideration of the magnitude of the eventual economic or social benefits that may be realized. Priority is given to funding projects in the subject areas listed in this section, but proposals in other areas are considered on a funds-available basis. There is no preference between short-term and long-term projects.

A. Bycatch

The bycatch of biological organisms (including interactions with sea turtles and marine mammals) by various fishing gears can have wide-reaching impacts from a fishery's management and an ecological standpoint, with the following major concerns:

1. Shrimp trawl fisheries. Studies are needed to contribute to the regional shrimp trawl bycatch program (including the southern U.S. Atlantic rock shrimp fishery) being conducted by NMFS in cooperation with state fisheries management agencies, commercial and recreational fishing organizations and interests, environmental organizations, universities, Councils, and Commissions. Specific guidance and research requirements are contained in the Cooperative Bycatch Plan for the Southeast, available from NMFS (see **ADDRESSES**). In particular, the studies should address:

(a) Data collection and analyses to expand and update current bycatch estimates, temporally and spatially emphasizing areas of greatest impact by shrimping. Sampling effort should include estimates of numbers, weight, and random samples of size (age) structure of associated bycatch complex, with emphasis on those overfished species under the jurisdiction of the Councils. Date collection should also include mortality, age, and length information for red drum in both inshore and offshore shrimp fisheries.

(b) Assessment of the status and condition of fish stocks significantly impacted by shrimp trawler bycatch, with emphasis given to overfished species under the jurisdiction of the Councils. Other sources of fishing and nonfishing mortality should be considered and quantified as well.

(c) Identification, development, and evaluation of gear, non-gear, and tactical fishing options to reduce bycatch.

(d) Improved methods for communicating with and improving technology and information transfer to the shrimp industry.

(e) Development and evaluation of statistical methods to estimate the bycatch of priority management species in the Gulf and South Atlantic shrimp trawl fisheries.

2. Pelagic longline fisheries. Several pelagic longline fisheries exist in the Gulf and South Atlantic, targeting highly migratory species, such as tunas, sharks, and swordfish. Priority areas include:

(a) Development and evaluation of gear and fishing tactics to minimize bycatch of undersized and unwanted species, including sea turtles, marine mammals, billfish, and overfished finfish species/stocks.

(b) Assessment of the biological impact of longline bycatch on related fisheries.

3. Reef fish fisheries. The reef fish complex is exploited by a variety of fishing gear and tactics. The following research on bycatch of reef fish species is needed: Characterization and assessment of the impact of bycatch of undersized target species, including release mortality, during recreational fishing and during commercial longline, bandit gear and trap fishing.

4. Finfish trawl fisheries. Studies are needed on quantification and qualification of the bycatch in finfish trawl fisheries, such as the flounder and fly-net fisheries in the South Atlantic.

B. Reef Fish

Some species within the reef fish complex are exhibiting signs of being overfished, either because of directed efforts or because of being the bycatch of other fisheries. The ecology of reef fish makes them vulnerable to overfishing, because they tend to concentrate over specific types of habitat with patchy distribution. This behavior pattern can make traditional fishery statistics misleading. Priority research areas include:

1. Collection of basic biological data for species in commercially and recreationally important fisheries. (a) Age and growth of reef fish. (1) Description of age and growth patterns, especially for vermilion, gray, and cubera snappers; gray triggerfish; gag; black grouper; hogfish; red porgy; and other less dominant forms in the management units for which data are lacking.

(2) Collect otoliths on groupers, snappers and other reef fish according to Gulf States Marine Fisheries Commission (GSMFC) otolith manual. If proposal is selected for funding, coordinate studies and design of sampling systems to provide production-style aging programs for the reef fish fishery with Steve VanderKooy at GSMFC (228) 875–5912.

(b) Reproduction studies of reef fish. (1) Maturity schedules, fecundity, and sex ratios of commercially and recreationally important reef fish, especially gag and other groupers in the Gulf and South Atlantic.

(2) Studies of all species to characterize the actual reproductive contribution of females by age.

(3) Identification and characterization of spawning aggregations by species, area, size group and season, especially for gag and other groupers.

(4) Effects of fishing on changes of sex ratios for gag, red grouper, and scamp, and disruption of aggregations.

(5) Investigations of the reproductive biology of gag, red grouper and other grouper species.

(c) Recruitment of reef fish. (1) Source of recruitment in Gulf and South Atlantic waters, especially for snappers, groupers, amberjacks, and other reef fish.

(2) Annual estimation of the absolute or relative recruitment of juvenile gag, gray snapper, and lane snapper to estuarine habitats off the west coast of Florida and to similar estuarine nursery habitats along the South Atlantic Bight; development of an index of juvenile gag recruitment for the South Atlantic based on historical databases and/or field studies.

(3) The contribution of live-bottom habitat and habitat areas of particular concern (Oculina banks) off Fort Pierce, Florida and off west central Florida to reef fish recruitment.

(d) Stock structure of reef fish. (1) Movement and migration patterns of commercially and recreationally valuable reef fish species, especially gag in the Gulf and South Atlantic and greater amberjack between the South Atlantic and Gulf.

(2) Stock structure of greater amberjack in the Gulf and South Atlantic.

(3) Fishery dependent and fishery independent data of wreakfish from the eastern North Atlantic.

2. Population assessment of reef fish. (a) Effect of reproductive mode and sex change (protogynous hermaphroditism) on population size and characteristics, with reference to sizes of fish exploited in the fisheries and the significance to proper management.

(b) Determination of the habitat and limiting factors for important reef fish resources in the Gulf and South Atlantic.

(c) Description of habitat and fish populations in the deep reef community and the prey distributions supporting the community.

(d) Development of statistically valid indices of abundance for important reef fish species in the South Atlantic and Gulf, especially red grouper, Goliath grouper, speckled hind, red porgy, Warsaw grouper and Nassau grouper.

(e) Stock assessments to establish the status of major recreational and commercial species. Innovative methods are needed for stock assessments of aggregate species, including the effect of fishing on genetic structure and the incorporation of sex change for protogynous hermaphrodites into stock assessment models.

3. Management of reef fish. (a) Research in direct support of management, including catch-and-release mortalities, by gear and depth.

(b) Characterization and evaluation of biological impacts (e.g., changes in age or size structure of reef fish populations in response to management strategies).

C. Red Snapper Research

1. Red snapper bycatch. The bycatch of red snapper can have significant impacts from a fisheries management and ecological standpoint. Research on bycatch of red snapper should focus on the following:

(a) Directed red snapper fisheries. The reef fish fishery is exploited by a variety of fishing gear and tactics. The following research on regulatory discards is needed to better evaluate the effectiveness of management measures such as minimum size limits and closed seasons:

(1) Development and evaluation of gear and fishing tactics to minimize the bycatch of or increase the survival of discarded red snapper and other reef fish species.

(2) Characterization and assessment of the impact of bycatch of undersized reef fish species, including release mortality, during recreational and commercial fishing. Research on the catch-and-release mortality of red snapper and other reef fish species, by gear (e.g., capture by commercial bandit rigs that are electrically or hydraulically powered), fishery (e.g., headboat, private boat, charter boat, commercial), and depth. Studies are needed to specifically relate ''sink or swim'' data, which can be obtained through observer programs, with long-term survival rates.

(3) Research to document predation rates on discarded red snapper and other reef fish species.

3. Red snapper population assessment. (a) Determination of the habitat and limiting factors for important red snapper populations in the Gulf.

(b) Estimates of red snapper abundance, age structure and population dynamics on oil platforms and other artificial structures.

4. Management of red snapper. (a) Characterization and evaluation of biological impacts (e.g., changes in age or size structure of red snapper populations in response to management strategies).

(b) Research to evaluate the use of minimum size limits as a management tool in the red snapper fishery.

D. Coastal Migratory Pelagic Fisheries

The commercial and recreational demand for migratory coastal pelagics has led to overfishing for certain species. Additionally, some are transboundary with Mexico and other countries and may ultimately demand international management attention. Current high priorities include:

1. Recruitment indices for king and Spanish mackerel, cobia, dolphin, wahoo, and bluefish, primarily from fishery-independent data sources.

2. Fishery-independent methods of assessing stock abundance of king and Spanish mackerel, dolphin and wahoo.

3. Release mortality data for all coastal pelagic species.

4. Improved catch statistics for all species in Mexican waters, with special emphasis on king mackerel, dolphin, and wahoo. This includes length-frequency and life history information.

5. Information on populations of coastal pelagics overwintering off the Gulf of Mexico and the South Atlantic States of North Carolina, South Carolina, Georgia, and Florida, especially concerning population size, age, and movement patterns; and for dolphin and wahoo during the entire year throughout their migratory patterns. Calculate the mixing rates for Atlantic/Gulf king mackerel on an annual basis.

6. Development of a practical method for aging dolphin.

7. Basic biostatistics for cobia, dolphin, and wahoo to develop age-length keys and maturation schedules for stock assessments and to evaluate stock structures.

8. Impact of bag limits on total catch and landings of king and Spanish mackerel, dolphin, wahoo, and cobia.

E. Groundfish and Estuarine Fishes

Substantial stocks of groundfish and estuarine species occur in the Gulf and South Atlantic. Most of the database for assessments comes from studies conducted by NMFS and state fishery management agencies. Because of the historical and current size of these fish stocks, of their importance as predator and prey species, and of their current or potential use as commercial and recreational fisheries, more information on their biology and life history is needed. General research needs are:

1. Red drum. (a) Size and age structure of the offshore adult stock in the Gulf and South Atlantic.

(b) Catch-and-release mortality rates from inshore and nearshore waters.

(c) Estimates of absolute abundance of red drum in the Gulf of Mexico and the Atlantic.

2. Life history and stock structure for weakfish, menhaden, spot, croaker, flounder, sheepshead, black drum, mullet, and white trout in the Gulf and the South Atlantic: Migratory patterns, long-term changes in abundance, growth rates, and age structure and comparisons of the inshore and offshore components of recreational and commercial fisheries.

F. Essential Fish Habitat

1. Determine the effects of fishing gears (e.g., trawls and traps) and practices (e.g., gear retrieval and anchoring) on essential fish habitat (EFH), with emphasis on benthic habitats within the EEZ of the Caribbean, southern U.S. Atlantic, and Gulf of Mexico regions.

2. Develop scientific data to allow the identification and refinement, as appropriate, of EFH designations for the various life stages of Federally managed species.

3. Develop scientific data to allow the identification and refinement, as appropriate, of Habitat Areas of Particular Concern (HAPC) designation for the various life stages of Federally managed species.

4. Develop GIS mapping protocols and tools to allow the presentation of EFH, HAPC, fishery distribution information, and other relevant data for the southeastern United States, including Puerto Rico and the U.S. Virgin Islands.

G. Economic and Sociocultural Studies

1. Development and application of models to evaluate the economic impacts of bycatch reduction. The models should explicitly consider the impacts on the directed fishery and gains to the bycatch fishery. The models should be developed for fisheries in general and for major fisheries (e.g., shrimp and red snapper). The models should describe criteria for determining the economically and socially efficient level of bycatch reduction.

2. Development of economic incentives and other innovative alternatives, including bycatch quotas, to gear and season/area restrictions as ways to reduce bycatch. The project should contrast the relative costs, potential gains, and level of bycatch reduction associated with traditional methods and any innovative alternatives addressed by the project.

3. Evaluation of vessel logbook data for monitoring fishery performance and providing economic information for management.

4. Estimation of demand models for recreational fishing trips when the target species include a single species, an aggregate of related species, or all species combined. Studies using new data from the Southeast economics add-ons to Marine Recreational Fisheries Statistics Survey are highly encouraged. Studies can be proposed on species such as, red drum, king mackerel, Spanish mackerel, red grouper, gag, black grouper, dolphin, wahoo, vermilion snapper, yellowtail snapper, and Atlantic black sea bass. Fishing quality (stock size, catch per unit effort, average fish size) as a determinant of fishing demand should be emphasized.

5. Identification of the motivational factors behind the selection of specific charter types by recreational anglers. These include but are not limited to cost, duration (half day versus full day), time of day, size of the charter (number of passengers), services offered, etc.

6. Determination of the value and economic impact of recreational angling in the headboat fishery. This will require the collection of data to generate recreational trip demand equations for fishing in general and for various key species. Economic impact assessment will require the collection of appropriate expenditure data and imputation using standard impact assessment software.

7. Design and evaluation of limited access options for recreational fisheries with specific emphasis on modes of fishing and jurisdictional issues. Key species of emphasis are red snapper, king mackerel, red grouper, gag and black grouper.

8. Estimation of fishing behavioral models, and effort supply and production functions for the commercial and for-hire sectors. Specific attention should be given to species target behavior, time and space decisions, and whether profit maximization is an appropriate motivational assumption for the supply of fishing effort. This intent of this research is to determine the basis upon which fishermen make their fishing related decisions (e.g., when to fish, where to fish, how much to fish, what species to target, what gear to use, etc.)

9. Description of the social, cultural, and /or economic aspects of establishing fishery reserves. Studies should employ accepted data collection methods. Various management alternatives should be considered in the studies, e.g., exclude all users, all consumptive users, varying the size of the reserve, anchoring rules, and other relevant management tools.

10. Comparison of the expected economic and social impacts of previously implemented fisheries regulations with realized impact for all regulated species. Attempts should be made to identify and isolate behavioral causes of divergence as opposed to environmental causes.

11. In-depth community profiles of communities previously identified by NOAA Fisheries as fishing communities in the South Atlantic. Profiles to include descriptions of the community, commercial and recreational fishing-related activities and businesses, historical information on fishing related activities, community structure and social ties based on fishing, and changes in the community due to federal regulations on the fisheries. The project should also focus on demographics of people in the community to determine the relative income and poverty index for the community and potential of employment outside the fishing industry.

12. Non-market valuation of protected species and other marine resources.

13. Examination of the feasibility and efficacy of vessel and/or license buy-back programs. Key fisheries are the shrimp and reef fish fisheries (red snapper, vermilion snapper, king mackerel, red grouper, gag).

14. Evaluation of alternative effort control management measures in federally managed commercial fisheries. Analyses should include a comparison of potential economic, social, cultural, and ecological impacts at the vessel, individual, and community level, and examine the desirability of single species versus multiple species approaches. Depending on the fishery and its current management structure, possible alternatives include but are not limited to: control dates for permits; limited entry; transferable or non-transferable individual catch, individual effort, community catch, or community effort quotas; and cooperatives or other forms of co-management. For catch and effort quotas, the efficacy of initially allocating and segmenting quota markets by gear, vessel fishing power capacity, and by state or community should be explicitly addressed.

15. Evaluation of the extent and impact of recreational sales (all species, by species) on recreational harvests, commercial closures and demand for recreational fishing.

16. Evaluation of the transference of fishing opportunity between commercial, recreational, and conservation sectors under a transferable rights program. Key fisheries are the red snapper, vermilion snapper, king mackerel, Spanish mackerel, red grouper, and gag fisheries.

17. Development of improved methods and procedures for transferring technology and educating constituency groups concerning fishery management and conservation programs. Of special importance are programs concerned with controlled access and introduction of conservation gear.

18. Research that examines the effects of factors other than fishery management on the welfare of the Southeast's fishermen and fishing communities, including but not necessarily limited to: domestic and

foreign trade policies, macroeconomic conditions, energy policies/prices, insurance rates, foreign aid policies (e.g. World Bank, IMF, OECD, etc.), and coastal economic development (including both land use and water use, with a particular focus on pollution generating activities and gentrification).

19. A comparative analysis of management/regulation in the seafood industry relative to other food producing industries that operate under the USDA's control.

20. Development of methodologies to accurately assess the cumulative economic and social impacts of fishery management regulations on fishermen and fishing communities, and to separate such from the impacts of non-fishery management factors.

21. An empirically based assessment of how and to what extent ''demand side'' policies and programs are likely to affect the welfare of domestic fishermen and fishing communities, as well as domestic consumers. Analyses should specifically include estimation of supply and consumer demand elasticities by product form and type, explicitly taking the role of imports into account. Such policies and programs would include: product and quality standards (similar to those employed in the beef, pork, and poultry industries), eco-labeling, country of origin labeling, and marketing of domestically produced seafood (i.e. ''Buy U.S.''). This research should specifically address the magnitude and distribution of costs and benefits for providing additional product information to seafood consumers.

22. Development of point of sales materials (recipes, posters, etc. to be used in retail establishments) to promote sales of domestic wild harvested shrimp.

23. Evaluation of the economic effects of hypoxia on Gulf of Mexico fisheries.

II. Award Information

We are soliciting applications for Federal assistance pursuant to 15 U.S.C. 713c–3(d). This document describes how to apply for funding under the MARFIN Grant Program and how we will determine which applications we will fund.

Approximately $2.2 million may be available in fiscal year (FY) 2004 for projects. This amount includes possible in-house projects and $500,000 for 1–year projects for red snapper research. (See I. Funding Opportunities.) Publication of this notice does not obligate NMFS to fund an award or any parts of an award since funds will be contingent upon availability of funding.

Project proposals accepted for funding with a project period over 1 year do not have to compete for the additional years of funding. However, funding for the additional years, is contingent upon the availability of funds and satisfactory performance and is at the sole discretion of the agency.

This program is described in the ''Catalog of Federal Domestic Assistance'' under program number 11.433, Marine Fisheries Initiative (MARFIN).

III. Eligibility Information

1. Eligible applicants include institutions of higher education, hospitals, other nonprofits, commercial organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the MARFIN program is to optimize research and development benefits from U.S. marine fishery resources.

We are strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. DOC/NOAA's goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

2. Cost Sharing: Cost-sharing is not required for the MARFIN program. Applications must provide the total budget necessary to accomplish the project, including contributions and/or donations. Because 15 U.S.C. 713c–3(c)(4)(B) provides that the amount of Federal funding must be at least 50 percent of the estimated cost of the project, the total costs shown in the proposal will be evaluated for appropriateness according to the administrative rules, including 15 CFR 14.23 and 15 CFR 24.24, as appropriate. If an applicant chooses to cost-share, and if that application is selected for funding, the applicant is bound by the percentage of the cost share reflected in the grant or cooperative agreement award. Note: Costs incurred in either the development of a project or the financial assistance application, or time expended in any subsequent discussions or negotiations prior to the award, are neither reimbursable nor recognizable as part of the recipient's cost share.

IV. Application and Submission Information

1. Address to Request Application Package: You can obtain an application package from, and send your completed applications(s) to: Ellie Francisco Roche, Chief, State/Federal Liaison Office, Southeast Regional Office, NMFS, 9721 Executive Center Drive, N., St. Petersburg, FL 33702. You may also obtain the application package from the MARFIN Home Page at: *http://caldera.sero.nmfs.gov/grants/grants.htm.*

You must submit one signed original and nine signed copies of the completed application (including supporting information). We will accept neither facsimile applications, nor electronically forwarded applications.

2. Content and Form of Application Submission - We will award grants or cooperative agreements for a maximum period of up to 3 years, consisting of one, two, or three budget periods. The award period depends upon the duration of funding requested in the application, the decision of the NMFS selecting official on the amount of funding, the results of post-selection negotiations between the applicant and NOAA officials, and pre-award review of the application by NOAA and Department of Commerce (DOC) officials. Normally, each project budget period is 12 months in duration.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67FR 55109), is applicable to this solicitation. The standard forms in a MARFIN application include the MARFIN Project Budget and the MARFIN Project Summary. Applicants should contact the NMFS Southeast Regional Office for a copies of this solicitation's MARFIN application forms (see **ADDRESSES**). You may also obtain the application package from the MARFIN Home Page at: *http://caldera.sero.nmfs.gov/grants/grants.htm.*

Project applications must identify the principal participants, and include copies of any agreements describing the specific tasks to be performed by participants. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and

enhancing the use of Gulf of Mexico and/or South Atlantic fishery resources, and cost estimates as they relate to specific aspects of the project. Budgets must include a detailed breakdown, by category of expenditures, with appropriate justification for both the Federal and non-Federal shares.

Applications should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multi-disciplinary. In addition to referencing specific area(s) of special interest, proposals should state whether the research applies to the Gulf of Mexico only, the South Atlantic only, or to both areas. Successful applicants may be required to collect and manage data in accordance with standardized procedures and formats approved by NMFS and to participate with NMFS in specific cooperative activities that are determined by consultations between NMFS and successful applicants before project grants are awarded. All applications must include funding for the principal investigator to participate in an annual MARFIN Conference in the southeast regional area at the completion of the project.

Applications must be one-sided and unbound. Incomplete applications will be returned to the applicant. Ten copies (one original and nine copies) of each application are required and should be submitted to the NMFS Southeast Regional Office, State/Federal Liaison Office (see **ADDRESSES**). The Office of Management and Budget (OMB) has approved 10 copies, under OMB Control No. 0648–0175.

3. Submission Dates and Times - We must receive your application by close of business (5 p.m. eastern daylight time on June 27, 2003. Applications received after that time will not be considered for funding. The earliest start date of awards is about 200 days after the date of publication of this notice. Applicants should consider this processing time in developing requested start dates for their applications.

When we receive applications we will screen them to ensure that they were received by the deadline date (see **DATES**); include SF 424 signed and dated by an authorized representative; were submitted by an eligible applicant; address one of the funding priorities for federally managed species; and include a budget, statement of work, and milestones, and identify the principal investigator. We do not have to screen applications before the submission deadline in order to identify deficiencies that would cause your application to be rejected so that you would have an opportunity to correct them. However, should we do so and provide you information about deficiencies, or should you independently decide it is desirable to do so, you may correct any deficiencies in your application before the deadline. After the deadline, the application must remain as submitted; no changes can be made to it. If your application does not conform to these requirements and the deadline for submission has passed, the application will be returned without further consideration.

4. Intergovernmental Review - Applications under this program are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants must contact their State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's home page at *http://www.whitehouse.gov/omb/grants/spoc.html*.

5. Funding Restrictions - Construction is not an allowable activity under this program. Therefore, applications will not be accepted for construction projects.

Indirect Costs - If you have a negotiated rate with a Federal agency, the total dollar amount of the indirect costs awarded under this program will not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 25 percent of the Federal share of the total proposed direct costs dollar amount in the application, whichever is less. A copy of the current negotiated Indirect Cost Agreement with the Federal Government must be included with the application. If the applicant does not have a negotiated cost rate, then they may direct cost all charges, or submit a request to establish a rate.

6. Other Submission Requirements - You must meet all application requirements and provide all information necessary for the evaluation of the proposal, including one signed original and nine signed copies of the application to the NMFS Southeast Regional Office, State/Federal Liaison Office (see **ADDRESSES**). You must also be available to respond to questions during the review and evaluation of the proposal(s).

V. Application Review Information

1. Criteria - Applications responsive to this solicitation will be evaluated by three or more appropriate private and/or public sector experts to determine their technical merit. These reviewers will provide individual evaluations of the proposals. No consensus advice will be given. These reviewers provide comments and assign scores to the applications based on the following criteria, with the weights shown in parentheses:

a. Does the proposal have a clearly stated goal(s) with associated objectives that meet the needs outlined in the project narrative? (30 points maximum)

b. Does the proposal clearly identify and describe, in the project outline and statement of work, scientific methodologies and analytical procedures that will adequately address project goals and objectives? (30 points maximum)

c. Do the principal investigators provide a realistic timetable to enable full accomplishment of all aspects of the research? (20 points maximum)

d. How effective are the proposed methods in enabling the principal investigators to maintain stewardship of the project performance, finances, cooperative relationships, and reporting requirements? (10 points maximum)

e. Does the budget appropriately allocate and justify costs? (10 points maximum)

2. Review and Selection Process - Following the technical review, we will determine the weighted score for each individual review and average the individual technical review scores to determine the final technical score for each application. Then, we will rank applications in descending order by their final technical scores. A ''cutoff'' score of 70% will be used and those applications that scored below the cutoff will be eliminated from further consideration.

MARFIN Panel. Those applications at or above the cutoff technical evaluation score will be presented to a panel of non-NOAA fishery experts known as the MARFIN Panel. Each member of the MARFIN Panel individually considers if needs of the Agency are addressed in each proposal, if the project assists industry, and if the project addresses issues that are important to regional fisheries management. The individuals on the MARFIN Panel provide comments and rate each of these proposals as either ''Recommended for Funding'' or ''Not Recommended for Funding.'' No consensus advice will be given by the panel. The Program Manager ranks the proposals in the order of preferred funding, based on the number of MARFIN Panel members recommending the proposal for funding.

Regional Administrator. The ranked proposals are provided to the Regional Administrator, who is the selecting official, in the order of preferred

funding, based on the number of MARFIN Panel members recommending the proposal for funding. If there are ties in the rankings, those ties will be distinguished by the peer review score. The Regional Administrator also receives the MARFIN Panel members' individual comments.

The Regional Administrator, in consultation with the Assistant Administrator for Fisheries, determines the projects to be recommended for funding. Though rarely used, the Regional Administrator has an option to make a selection that falls outside the MARFIN Panel's order of preferred funding on the following grounds: for geographic diversity, if not enough projects have addressed a priority, or because of duplication with other funded grants within NOAA. The Regional Administrator will justify in writing any such selection.

The exact amount of funds awarded, the final scope of activities, the project duration, and specific NMFS cooperative involvement with the activities of each project are determined in pre-award negotiations between the applicant, the NOAA Grants Office and the NMFS Program Office. Projects must not be initiated by recipients until a signed award is received from the NOAA Grants Office. Substantial involvement is described as collaboration, participation, or intervention by NMFS in the management of the project. Whether the funding instrument is a grant or a cooperative agreement will be determined by whether there is substantial involvement in the project. A cooperative agreement will be used if NOAA shares responsibility for management, control, or direction with the recipient.

VI. Award Administration Information

1. Award Notices - Successful applications generally are recommended within 150 days from the date of publication of this notice. The earliest start date of awards average 90 days after each project is selected and after all NMFS/applicant negotiations of cooperative activities have been completed. The earliest start date of awards is about 200 days after the date of publication of this notice. Applicants should consider this selection and processing time in developing requested start dates for their applications. Unsuccessful applications will be returned to the applicant.

2. Administrative Requirements - If you are selected to receive a grant or cooperative agreement, you must:

- Manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by the award.

- Keep records sufficient to document any costs incurred under the award, and allow access to these records for audit and examination by the Secretary of Commerce, the Comptroller General of the United States, or their authorized representatives; and, submit financial status reports (SF 269) to NOAA Grants in accordance with the award conditions.

3. Reporting - Successful applicants will be required to:

- Submit semiannual project status reports on the use of funds and progress of the project to us within 30 days after the end of each 6–month period. You will submit these reports to the individual identified as the NMFS Program Officer in the funding agreement.

- Submit a final report within 90 days after completion of each project to the NMFS Program Officer. The final report must describe the project and include an evaluation of the work you performed and the results and benefits in sufficient detail to enable us to assess the success of the completed project. We will provide you with formats for the semiannual and final reports.

- In addition to the final report, we request that you submit any publications printed with grant funds (such as manuals, surveys, etc.) To the NMFS Program Officer for dissemination to the public.

We are committed to using available technology to achieve the timely and wide distribution of final reports to those who would benefit from this information. Therefore, you are encouraged to submit final reports in electronic format, in accordance with the award terms and conditions, for publication on the NMFS MARFIN Home Page. You may charge the costs associated with preparing and transmitting your final reports in electronic format to the grant award.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424 and 269 has been approved by OMB under the respective control numbers 0348–0043 and 0348–0039. The use of the MARFIN Project Budget and MARFIN Project Summary have been approved under the control number 0648–0175.

Public reporting burden for each of the two MARFIN forms is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the NMFS Southeast Regional Office, State/Federal Liaison Office (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

VII. Agency Contact(s)

For questions regarding the application process, you may contact: Ellie Francisco Roche, Chief, State/Federal Liaison Office, (727) 570–5324, or at *Ellie.Roche@noaa.gov*.

Authority: 15 U.S.C. 713c–3(d).

Dated: May 7, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–11917 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000522149–3099–05]

RIN 0648–ZA

Dean John A. Knauss Marine Policy Fellowship, National Sea Grant College Program

AGENCY: Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; correction.

SUMMARY: The National Sea Grant College Program published a document in the **Federal Register** of March 26, 2003, concerning applications to be submitted for a Fellowship program initiated by the National Sea Grant Office (NSGO), National Oceanic and Atmospheric Administration (NOAA). The document contained incomplete information. The full notice can be found at: *http://www.nsgo.seagrant.org/Knauss/2004/FRN.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Nikola Garber, 301–713–2431 ext. 124; e-mail: *nikola.garber@noaa.gov.*

Corrections

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14583 in the first column, correct the **SUMMARY** caption to read:

SUMMARY: This notice announces that applications may be submitted for a Fellowship program which was initiated by the National Sea Grant Office (NSGO), National Oceanic and Atmospheric Administration (NOAA), in fulfilling its broad educational responsibilities and legislative mandate of the Sea Grant Act, to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine and aquatic-related fields. This notice announces that the **Federal Register** notice that solicited applications for the program for FY 2002, published on November 14, 2001 (66 FR 57039), is amended to allow excess funds to be used for Fellowship related expenses.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14583 in the first column, correct the **DATES** caption to read:

DATES: Deadlines vary from program to program, but applications from respective fellows to Sea Grant Colleges are generally due early to mid-April. Contact your state's Sea Grant program for specific deadlines (see list below). Selected applications from the sponsoring Sea Grant program (one original and two copies) are to be received in the NSGO no later than 5:00 p.m. e.d.t. on May 14, 2003. Awards are anticipated to start on February 1, 2004. Applications may be modified to reflect the amended items while the March 26, 2003 notice should be consulted for all other requirements necessary for submitting an application.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the first column, the following caption should be inserted immediately before the ''How To Apply'' caption:

Length of Assignment: The length of the assignment is for one year and is non-renewable. The inclusive dates of the official fellowship are February 1 through January 31; however, these dates can be slightly adjusted to accommodate academic semester needs.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the first column, insert the following sentence at the end of the second paragraph of the ''How To Apply'' caption:

All unsuccessful applications will be destroyed one year after submission date.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the first column, sentences 3 and 4 of the ''Stipend and Expenses'' caption should be corrected to read:

The additional $6,000 will be used to cover mandatory health insurance for the Fellow and moving expenses; any remaining funds shall be used during the Fellowship year, first to satisfy academic degree-related activities, and second for Fellowship-related activities.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the second column, sentence 7 of the ''Selection'' caption should be corrected to read:

Once all applications have been discussed and scored, a numerical ranking will be created based on the average of the panel member scores by the Knauss program manager or designee.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the third column, the following sentence should be inserted directly following the first sentence of the ''Federal Policies and Procedures'' caption:

Therefore, fellows are not employees of their host agency or NOAA.

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14584 in the third column at the second sentence of the ''Federal Policies and Procedures'' caption the word ''Hence'' should be removed and the sentence should begin with ''The Department of Commerce. * * *''

In the **Federal Register** of March 26, 2003, in FR Doc. 03–7251, on page 14585 in the first column, immediately after the first sentence of the ''Classification'' caption the following sentence should be inserted:

This program is excluded under E.O. 12372.

Dated: May 7, 2003.

Daniel L. Albritton,

Acting Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 03–11822 Filed 5–12–03; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DOD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The Open Session of the meeting will be held on Monday, June 2, 2003, from 8:30 a.m. to 11 a.m. The closed Executive Session will be held on Monday, June 2, 2003, from 11 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the U.S. Naval Academy, Annapolis, Maryland in the Bo Coppedge dining room of Alumni Hall.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Domenick Micillo, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information, which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), (7) and (9) of title 5, United States Code.

Dated: May 7, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–11866 Filed 5–12–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice—Computer Matching between the Department of Education and the Department of Justice.

SUMMARY: Section 5301(a)(1) of the Anti-Drug Abuse Act of 1988 (now designated as section 421(a)(1) of the Controlled Substances Act (21 U.S.C. 862(a)(1))) includes provisions regarding the judicial denial of Federal benefits. Section 5301 authorizes Federal and State judges to deny certain Federal benefits (including student financial assistance under Title IV of the Higher Education Act of 1965, as amended) to individuals convicted of drug trafficking or possession.

In order to ensure that Title IV student financial assistance is not awarded to individuals subject to denial of benefits under court orders issued pursuant to section 5301, the Department of Justice and the Department of Education implemented a computer matching program. The 18-month computer matching agreement (CMA) was recertified for an additional 12 months on June 18, 2002. The 12-month recertification of the CMA will automatically expire on June 18, 2003.

The Department of Education must continue to obtain from the Department of Justice identifying information regarding individuals who are the subject of section 5301 denial of benefits court orders. The purpose of this notice is to announce the continued operation of the computer matching program and to provide certain required information concerning the computer-matching program.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (*see* 54 FR 25818, June 19, 1989), and OMB Circular A–130, the following information is provided:

1. Names of Participating Agencies

The Department of Education (ED)(recipient agency) and the Department of Justice (DOJ)(source agency).

2. Purpose of the Match

This matching program is designed to assist ED in enforcing the sanctions imposed under section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690).

3. Authority for Conducting the Matching Program

Under section 5301 of the Anti-Drug Abuse Act of 1988, as amended (21 U.S.C. 862), ED must deny Federal benefits to any individual upon whom a Federal or State court order has imposed a penalty denying eligibility for those benefits. Student financial assistance under Title IV of the Higher Education Act of 1965, as amended (HEA) is a Federal benefit under section 5301 and ED must, in order to meet its obligations under the HEA, have access to information about individuals who have been declared ineligible under section 5301.

Section 5301 and the Procedures for Implementation of section 5301 (Pub. L. 100–690), transmitted to the Congress on August 30, 1989, direct DOJ to act as an information clearinghouse for Federal agencies. While DOJ provides information about section 5301 individuals who are ineligible for Federal benefits to the General Services Administration (GSA) for inclusion in GSA's List of Parties Excluded from Federal Procurements and Nonprocurement Programs, DOJ and ED have determined that matching against the DOJ database is more efficient and effective than access to the GSA List. The DOJ database has specific information about the Title IV, HEA programs for which individuals are ineligible as well as the expiration of the debarment period, making the DOJ database more complete than the GSA List. Both of these elements are essential for a successful match.

4. Categories of Records and Individuals Covered by the Match

ED will submit for verification, records from its Central Processing System files (Federal Student Aid Application File (18–11–01)), the social security number (SSN) and other identifying information for each applicant for Title IV student financial assistance. ED will use the SSN and the first two letters of an applicant's last name for the match.

The DOJ Denial of Federal Benefits Clearinghouse System (DEBAR)(OJP–0013) contains the names, social security numbers, dates of birth, and other identifying information regarding individuals convicted of Federal or State offenses involving drug trafficking or possession of a controlled substance who have been denied Federal benefits by Federal or State courts. This system of records also contains information concerning the specific program or programs for which benefits have been denied, as well as the duration of the period of ineligibility. DOJ will make available for the matching program the records of only those individuals who have been denied Federal benefits under one or more of the Title IV, HEA programs.

5. Effective Dates of the Matching Program

The matching program will become effective on June 19, 2003; or 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and OMB unless OMB objects to some or all of the agreement; or 30 days after publication of this notice in the **Federal Register,** whichever date is last. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months thereafter, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

6. Address for Receipt of Public Comments or Inquiries

Ms. Edith Bell, Management and Program Analyst, U.S. Department of Education, Federal Student Aid, Union Center Plaza, 830 First Street, NE., Washington, DC 20202–5454. Telephone: (202) 377–3231. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498, or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara.index.html*

Authority: 21 U.S.C. 862(a)(1); 5 U.S.C. 552a; Pub. L. No. 100–503.

Dated: May 8, 2003.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 03–11898 Filed 5–12–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed three-year extensions to the Oil and Gas Reserves Survey Forms EIA–23, EIA–23P and EIA–64A. Form titles are ''Annual Survey of Domestic Oil and Gas Reserves'' (EIA–23), ''Oil and Gas Well Operator List Update Report'' (EIA–23P) and ''Annual Report of the Origin of Natural Gas Liquids Production'' (EIA–64A), respectively.

DATES: Comments must be filed by July 14, 2003. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Rafi Zeinalpour. To ensure receipt of the comments by the due date, submission by FAX (214–720–6155) or e-mail *rafi.zeinalpour@eia.doe.gov* is recommended. The mailing address is U. S. Department of Energy, Energy Information Administration, Reserves and Production Division, 1999 Bryan Street, Suite 1110, Dallas, Texas 75201–6801. Alternatively, Mr. Zeinalpour may be contacted by phone at (214) 720–6191.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Rafi Zeinalpour at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 et seq.) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 et seq.) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

Operators of crude oil and natural gas wells are the target respondents of Forms EIA–23 and EIA–23P who should report volumes of crude oil, associated-dissolved natural gas, non-associated natural gas and lease condensate production and reserves along with revisions to previous year reports, discoveries, extensions, sales and acquisitions, and non-producing reserves for each operated field without regard to interest ownership. Individual fields are requested from large and intermediate size producers on Form EIA–23. Samples of small operators are requested to submit less detailed information on a different version of the form. The majority of small operators are not asked to report annually on Form EIA–23. The selected sample of small operators provide production and available reserves information for crude oil, natural gas and lease condensate at a State or geographic sub-division level on the Form EIA–23. Form EIA–23P is a postcard form used to collect information on possible oil and gas well operators that may be included in future EIA–23 surveys. Information obtained from Form EIA–23P is used to confirm and/or update general operator information, primarily about small companies with which no contact has been made in the last few years.

Operators of natural gas plants are the target respondents of the Form EIA–64A. The amount of natural gas processed, natural gas liquids produced, resultant shrinkage of the natural gas and natural gas used in processing are requested of all natural gas plant operators.

In response to Public Law 95–91 Section 657, estimates of U.S. oil and gas reserves are to be reported annually. This a unique estimate report that is utilized by many entities. These estimates are essential to the development, implementation, and evaluation of energy policy and legislation. Data are used directly in the EIA annual publication, U.S. Crude Oil, Natural Gas and Natural Gas Liquids Reserves, and are incorporated in a number of other publications and analyses. Secondary publications, which use the data, include EIA's Annual Energy Review, Annual Energy Outlook, Petroleum Supply Annual and Natural Gas Annual.

II. Current Actions

This notice is for a proposed three-year extension of Form EIA–23, ''Annual Survey of Domestic Oil and Gas Reserves'', Form EIA–23P, ''Oil and Gas Well Operator List Update Report'', and Form EIA–64A, ''Annual Report of the Origin of Natural Gas Liquids Production.''

Form EIA–23P will be extended without modification. Currently available reliable State and other sources will be used to confirm and/or update operator information thereby reducing the number of Form EIA–23P mail-outs and thus the burden on respondents.

Form EIA–64A will also be extended without modification. Maintaining the list of currently active gas plants will be aided by reliable State and other sources thereby reducing the number of needed contacts with plant operators.

Form EIA–23 will also be extended without modification. Large and intermediate operators are provided a CD–ROM of the RIGS (Reserves Information Gathering System) to aid in reducing the time needed to complete the Field Level Survey form. Field description information and ending reserves values from last years report can be maintained electronically and automatically loaded into the current survey. In addition, new field description information (State, Subdivision, County Code, Field Code, MMS Code and Field Name) is available on a drop down menu using only the field name thereby further reducing the number of potential errors and the response time of these operators. The RIGS program also has automatic error messages to aid in the accurate completion of the survey data and reducing the time needed to check the response submission for errors. In addition, the completed survey may now be submitted electronically via e-mail further reducing the handling and response time of operators.

Sampled small operators can now complete the survey using an electronic version of the Summary Survey form potentially reducing their response time. In addition, they can also submit the completed survey electronically via

e-mail further reducing the handling and response time of the operators.

Many U. S. government agencies have an interest in the definitions of proved oil and gas reserves and the quality, reliability and usefulness of estimates of reserves. Among these are the Energy Information Administration (EIA), Department of Energy; Minerals Management Service (MMS), Department of Interior; Internal Revenue Service (IRS), Department of the Treasury; and the Securities and Exchange Commission (SEC). Each of these organizations has specific purposes for collecting, using, or estimating proved reserves. The EIA has a congressional mandate to provide accurate annual estimates of U.S. proved crude oil, natural gas and natural gas liquids reserves and publishes an annual reserves report to meet this requirement. The MMS is second only to the IRS in generating Federal revenue. The MMS maintains estimates of proved reserves to carry out their responsibilities in leasing, collecting royalty payments and regulating the activities of oil and gas companies on Federal lands and water. For the IRS, proved reserves and occasionally probable reserves are an essential component of calculating taxes for companies owning or producing oil and gas. The SEC requires publicly traded petroleum companies to annually file a reserves statement as part of their 10–K filing. The basic purpose of the 10–K filing is to give the investing public a clear and reliable financial basis to assess the relative value, as a financial asset, of a company's reserves, especially in comparison to other similar oil and gas companies.

Respondents should use the same methods when estimating reserves for the EIA as they do for the SEC. If there is an apparent conflict in requirements and assumptions, give precedence to the methods used for the SEC. Operators should note in the footnotes whether end of year or annual average prices were used and whether probabilistic or deterministic methods were utilized at the field level.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

B. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

C. Can the information be submitted by the due date?

D. Public reporting burden for this collection is estimated to average 4 hours for small operators, 32 hours for intermediate operators, and 160 hours for large operators on Form EIA–23. For operators reporting on Form EIA–23P, reporting burden is estimated at 15 minutes. For natural gas plant operators reporting on Form EIA–64A, the reporting burden is estimated at 6 hours. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

E. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

F. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

G. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

B. Is the information useful at the levels of detail to be collected?

C. For what purpose(s) would the information be used? Be specific.

D. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Issued in Washington, DC, on May 7, 2003.

Nancy J. Kirkendall,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 03–11886 Filed 5–12–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM96–1–024]

Standards for Business Practices of Interstate Natural Gas Pipelines

May 6, 2003.

Algonquin Gas Transmission Company [Docket No. RP03–457–000]; Alliance Pipeline L.P. [Docket No. RP03–432–000]; ANR Storage Company [Docket No. RP03–415–000]; ANR Pipeline Company [Docket No. RP03–441–000]; Black Marlin Pipeline Company [Docket No. RP03–351–000]; Blue Lake Gas Storage Company [Docket No. RP03–406–000]; Canyon Creek Compression Company [Docket No. RP03–424–000]; Central New York Oil and Gas Company, LLC [Docket No. RP03–412–000]; CenterPoint Energy Gas Transmission Company [Docket No. RP03–407–000]; CenterPoint Energy-Mississippi River Transmission Corporation [Docket No. RP03–466–000]; CMS Trunkline Gas Company, LLC [Docket No. RP03–450–000]; CMS Trunkline LNG Company, LLC [Docket No. RP03–448–000]; Colorado Interstate Gas Company [Docket No. RP03–410–000]; Columbia Gas Transmission Corporation [Docket No. RP03–455–000]; Columbia Gulf Transmission Company [Docket No. RP03–447–000]; Crossroads Pipeline Company [Docket No. RP03–456–000]; Dauphin Island Gathering Partners [Docket No. RP03–453–000]; Destin Pipeline Company, L.L.C. [Docket No. RP03–371–000]; Discovery Gas Transmission LLC [Docket No. RP03–348–000]; Dominion Cove Point LNG, LP [Docket No. RP03–379–000]; Dominion Transmission, Inc. [Docket No. RP03–377–000]; East Tennessee Natural Gas Company [Docket No. RP03–430–000]; Eastern Shore Natural Gas Company [Docket No. RP03–388–000]; Egan Hub Partners, L.P. [Docket No. RP03–454–000]; El Paso Natural Gas Company [Docket No. RP03–394–000]; Florida Gas Transmission Company [Docket No. RP03–361–000]; Garden Banks Gas

Pipeline, LLC [Docket No. RP03–443–000]; Granite State Gas Transmission Company [Docket No. RP03–458–000]; Great Lakes Gas Transmission Limited Partnership [Docket No. RP03–368–000]; Guardian Pipeline, L.L.C. [Docket No. RP03–434–000]; Gulf States Transmission Corporation [Docket No. RP03–416–000]; Gulf South Pipeline Company, LP [Docket No. RP03–413–000]; Gulfstream Natural Gas System [Docket No. RP03–439–000]; High Island Offshore System, L.L.C. [Docket No. RP03–418–000]; Horizon Pipeline Company, L.L.C. [Docket No. RP03–396–000] Iroquois Gas Transmission System LP [Docket No. RP03–420–000]; KeySpan LNG, L.P. [Docket No. RP03–408–000]; Kern River Gas Transmission Company [Docket No. RP03–374–000]; Kinder Morgan Interstate Gas Transmission LLC [Docket No. RP03–372–000]; KO Transmission Company [Docket No. RP03–421–000]; Maritimes & Northeast Pipeline, L.L.C. [Docket No. RP03–431–000]; Midwestern Gas Transmission Company [Docket No. RP03–400–000]; Mississippi Canyon Gas Pipeline, LLC Docket No. RP03–442–000]; Mojave Pipeline Company [Docket No. RP03–426–000]; National Fuel Gas Supply Corporation [Docket No. RP03–370–000]; Natural Gas Pipeline Company of America [Docket No. RP03–423–000]; Nautilus Pipeline Company, L.L.C. [Docket No. RP03–444–000]; North Baja Pipeline, LLC [Docket No. RP03–384–000]; Northern Natural Gas Company [Docket No. RP03–350–000]; Northern Border Pipeline Company [Docket No. RP03–414–000]; Northwest Pipeline Corporation [Docket No. RP03–436–000]; Overthrust Pipeline Company [Docket No. RP03–390–000]; Ozark Gas Transmission, L.L.C. [Docket No. RP03–405–000]; Paiute Pipeline Company [Docket No. RP03–404–000]; Panhandle Eastern Pipe Line Company [Docket No. RP03–449–000]; Petal Gas Storage, L.L.C. [Docket No. RP03–425–000]; PG&E Gas Transmission, Northwest Corporation [Docket No. RP03–403–000]; Pine Needle LNG Company, LLC [Docket No. RP03–428–000]; Portland Natural Gas Transmission System [Docket No. RP03–446–000]; Questar Southern Trails Pipeline Company [Docket No. RP03–391–000]; Questar Pipeline Company [Docket No. RP03–402–000]; Sabine Pipe Line LLC [Docket No. RP03–367–000]; Sea Robin Pipeline Company [Docket No. RP03–452–000]; Southern Star Central Gas Pipeline, Inc. [Docket No. RP03–419–000]; Southern LNG Inc. [Docket No. RP03–401–000]; Southern Natural Gas Company [Docket No. RP03–381–000]; Southwest Gas Storage Company [Docket No. RP03–451–000]; Steuben Gas Storage Company [Docket No. RP03–417–000]; Stingray Pipeline Company, L.L.C. [Docket No. RP03–445–000]; Tennessee Gas Pipeline Company [Docket No. RP03–389–000]; Texas Gas Transmission Corporation [Docket No. RP03–435–000]; Texas Eastern Transmission, LP [Docket No. RP03–438–000]; Trailblazer Pipeline Company [Docket No. RP03–422–000]; TransColorado Gas Transmission Company [Docket No. RP03–376–000]; Transcontinental Gas Pipe Line Corporation [Docket No. RP03–429–000]; Transwestern Pipeline Company [Docket No. RP03–360–000]; Tuscarora Gas Transmission Company [Docket No. RP03–373–000]; USG Pipeline Company [Docket No. RP03–369–000]; Vector Pipeline L.P. [Docket No. RP03–440–000]; Viking Gas Transmission Company [Docket No. RP03–387–000]; WestGas InterState, Inc. [Docket No. RP03–437–000]; Williston Basin Interstate Pipeline Company [Docket No. RP03–375–000]; Wyoming Interstate Company, Ltd [Docket No. RP03–411–000]; Young Gas Storage Company, Ltd. [Docket No. RP03–427–000]; (Not Consolidated)

Take notice that the above-referenced pipelines filed revised tariff sheets to comply with Order No. 587–R, Docket No. RM96–1–024 issued by the Commission on March 12, 2003.[1] These revised tariff sheets are to be effective July 1, 2003.

On March 12, 2003, the Commission issued Order No. 587-R, which among other things, amended 18 CFR 284.12 of its regulations to incorporate by reference the most recent version of the standards promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), *i.e.*, NAESB Standards Version 1.6, and the Wholesale Gas Quadrant's standards governing partial day recalls (Recommendations R02002 and R02002–2), adopted October 31, 2002.

In Order No. 587–R, the Commission required pipelines to file revised tariff sheets to reflect the changed standards by May 1, 2003, with an effective date of July 1, 2003. The Commission directed the pipelines incorporating the Version 1.6 standards into their tariffs to include the standard number and Version 1.6. Pipelines incorporating by reference the partial day recall standards must refer to the standard number (*e.g.*, 3.3.z2) and the Recommendation number (R02002 and R02002–2) in which the standard is adopted. Each of the pipelines has filed to comply with Order No. 587–R.

Due to the large number of pipelines that have filed to comply with Order No. 587–R, any party filing a motion to intervene or protest, must file a separate motion for each docket.

Any person desiring to be heard or to protest said filings should file motions to intervene or protests with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Pursuant to § 154.210, interventions and protests are due 12 days after the date of the filing in each docket. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11796 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587–R, 102 FERC § 61,273, 68 FR 13813 (March 21, 2003), III FERC Stats. & Regs. Regulations, § 31,141 (March 12, 2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–075]

ANR Pipeline Company; Notice of Negotiated Rate Filing

May 6, 2003.

Take notice that on May 1, 2003, ANR Pipeline Company (ANR), tendered for filing and approval a negotiated rate letter agreement between ANR and NJR Energy Services. ANR requests that the Commission accept and approve the negotiated rate to be effective May 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11807 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–465–000]

ANR Pipeline Company; Notice of Tariff Filing

May 7, 2003.

Take notice that on May 1, 2003, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, with an effective date of June 1, 2003.

ANR states that the purpose of the filing is to change the existing imbalance cashout mechanism found in section 15 of the General Terms and Conditions of the tariff. Specifically, the revised tariff sheets implement (1) an in-kind mechanism for resolving imbalances on a prospective basis; and (2) a transitional mechanism to recover (or refund) the gas and cash imbalances that exist as of the date that ANR switches to the new in-kind mechanism.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11937 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–378–000]

ANR Storage Company; Notice of Tariff Filing

May 6, 2003.

Take notice that on April 30, 2003, ANR Storage Company (ANR Storage), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets identified in ANR Storage's filing, with an effective date of April 1, 2003.

ANR Storage states that the revised tariff sheets are being filed to incorporate the changes approved in ANR Storage's Order 587–O compliance filing and the Commission's order on gas storage transfer rights into the Commission approved Order 637 tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 12, 2003.

Magalie R. Salas

Secretary.

[FR Doc. 03–11798 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–380–000]

Blue Lake Gas Storage Company; Notice of Tariff Filing

May 6, 2003.

Take notice that on April 30, 2003, Blue Lake Gas Storage Company (Blue Lake), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets identified in Blue Lake's filing with an effective date of April 1, 2003.

Blue Lake states that the revised tariff sheets are being filed to incorporate the changes approved in Blue Lake's Order No. 587–O compliance filing into the Commission approved Order No. 637 tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with §§ 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 12, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11799 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–101]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

May 6 , 2003.

Take notice that on May 1, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective May 1, 2003:

Original Sheet No. 892
Sheet Nos. 893—1999

CEGT states that the purpose of this filing is to reflect implementation of a new negotiated rate transaction.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with §§ 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11804 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos.EL03–117–000, QF90–65–008, QF90–87–008, and QF86–972–006]

Investigation of Certain Enron-Affiliated QFs: Cogen Technologies Linden Venture, L.P., Camden Cogen L.P., and Cogen Technologies NJ Venture; Notice of Initiation of Proceeding and Establishment of Intervention Date

May 6, 2003.

On May 2, 2003, the Commission issued an ''Order Initiating Investigation, Establishing Hearing Procedures, and Consolidating Dockets'' (Order) in reference to the above-captioned proceeding. Ordering Paragraph B of the Order directed the Secretary to publish, in the **Federal Register**, a Notice announcing the Commission's initiation of the proceeding and establishing a date for the filing of interventions.

By this notice, the date for filing motions to intervene in the above-captioned proceeding is May 23, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11795 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–464–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 2003.

Take notice that on May 1, 2003, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of June 1, 2003:

Third Revised Sheet No. 197
Third Revised Sheet No. 392

Columbia Gulf states that it is submitting this filing to incorporate into its tariff the Commission's pronouncements in *Tenaska Marketing Ventures* v. *Northern Border Pipeline Company*, 99 FERC ¶ 61,182 (2002) (Tenaska), and to clarify the treatment in limited situations in which a replacement shipper's service agreement may be terminated when the associated primary contract (*i.e.* the releasing shipper's contract) has been terminated. Columbia Gulf states that in Tenaska the Commission clarified that unless the pipeline's tariff explicitly provides for termination, a capacity release contract will remain in force following termination of the underlying contract through which the released capacity was made available. Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number

field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11936 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–463–000]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 2003.

Take notice that on May 1, 2003, Crossroads Pipeline Company (Crossroads) tendered for filing as part its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of June 1, 2003:

First Revised Sheet No. 186
First Revised Sheet No. 586

Crossroads states that it is submitting this filing to incorporate into its tariff the Commission's pronouncements in Tenaska Marketing Ventures v. Northern Border Pipeline Company, 99 FERC ¶ 61,182 (2002), (Tenaska), and to clarify the treatment in limited situations in which a replacement shipper's service agreement may be terminated when the associated primary contract (*i.e.* the releasing shipper's contract) has been terminated. Crossroads states that in Tenaska, the Commission clarified that unless the pipeline's tariff explicitly provides for termination, a capacity release contract will remain in force following termination of the underlying contract through which the released capacity was made available.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11935 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–467–000]

Dominion Cove Point LNG, LP.; Notice of Tariff Filing

May 7, 2003.

Take notice that on May 2, 2003, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of June 1, 2003:

First Revised Sheet No. 23
First Revised Sheet No. 72
First Revised Sheet No. 92

Cove Point states that the purpose of this filing is to change the timing of the billing of reservation charges under Rate Schedules LTD–1, FPS–1, FPS–2, FPS–3 and FTS.

Cove Point states that copies of the filing are being mailed to Cove Point's customers and all interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11938 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–459–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

May 6, 2003.

Take notice that on May 1, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twentieth Revised Sheet No. 32, with an effective date of July 1, 2003.

DTI states that the purpose of the filing is to update DTI's products extraction retainage percentage in compliance with Docket Nos. RP97–406–025 and RP01–74–000.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI 's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with §§ 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance

with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11802 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–050]

Dominion Transmission, Inc.; Notice of Negotiated Rates

May 6, 2003.

Take notice that on May 1, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of June 1, 2003:

Original Sheet No. 1404
Original Sheet No. 1414

DTI states that the filing is being filed for the disclosure of a recently negotiated rate transaction.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with §§ 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11805 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–433–000]

Energy West Development, Inc.; Notice of Compliance Filing

May 7, 2003.

Take notice that on May 1, 2003, Energy West Development, Inc. (Energy West), tendered for filing as part of FERC Gas Tariff, Original Volume No. 1, Original Tariff Sheet Nos. 1 to 116.

Energy West asserts that the purpose of this filing is to comply with the Commission's Order issued on April 2, 2003, in Docket Nos. CP03–2–000, CP03–3–000, and CP03–4–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11933 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–462–000]

Granite State Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 2003.

Take notice that on May 1, 2003, Granite State Gas Transmission Company (Granite State) tendered for filing to its FERC Gas Tariff, Third Revised Volume No.1, First Revised Sheet No. 309A, bearing a proposed effective date of June 1, 2003.

Granite State states that it is submitting this filing to incorporate into its tariff the Commission's pronouncements in *Tenaska Marketing Ventures* v. *Northern Border Pipeline Company*, 99 FERC ¶ 61,182 (2002) (Tenaska), and to clarify the treatment in limited situations in which a replacement shipper's service agreement may be terminated when the associated primary contract (*i.e.* the releasing shipper's contract) has been terminated. Granite State states that in Tenaska, the Commission clarified that unless the pipeline's tariff explicitly provides for termination, a capacity release contract will remain in force following termination of the underlying contract through which the released capacity was made available.

Granite State states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11934 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–409–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 6, 2003.

Take notice that on May 1, 2003, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective June 1, 2003:

First Revised Sheet No. 7
Second Revised Sheet No. 164
First Revised Sheet No. 165

Gulfstream states that it proposes to increase its fuel percentage for Transporter's Use in its tariff to 2.0 percent and defer the implementation of the System Balance Adjustment charge and the filing of future changes to the fuel percentage until 2005. Gulfstream states that this is necessary to permit average throughput levels to ramp up and permit the planned efficient operation of Gulfstream's compressors and to provide fuel rate certainty for the next two years.

Gulfstream states that copies of this filing have been mailed to all of its affected customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11801 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–6–009 and RP03–173–001]

Gulfstream Natural Gas System, L.L.C.; Notice of Compliance Filing

May 7, 2003.

Take notice that on April 30, 2003, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective May 1, 2003:

First Revised Sheet No. 20
First Revised Sheet No. 106
Sub First Revised Sheet No. 128
Sub First Revised Sheet No. 130
Sub First Revised Sheet No. 131
Sub Second Revised Sheet No. 137
Sub First Revised Sheet No. 137A
First Revised Sheet No. 155
First Revised Sheet No. 159
First Revised Sheet No. 178

Gulfstream states that it is filing these tariff sheets to comply with the Commission's April 15, 2003, order in these dockets. Gulfstream states that these revisions primarily reflect changes to the tariff making firm Maximum Hourly Quantity rights applicable to both primary and secondary points and changes deleting charges for transportation involved in the netting and trading of imbalances on the system, as well as assorted minor changes and clarifications.

Gulfstream states that copies of its filing have been mailed to all affected customers of Gulfstream and interested state commissions, and all parties on the Commission's Official Service List in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: May 12, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11929 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–015]

Midwestern Gas Transmission Company; Notice of Negotiated Rates

May 6, 2003.

Take notice that on May 1, 2003, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 273, to become effective May 1, 2003.

Midwestern states that it has entered into two Negotiated Rate Agreements with Northern Illinois Gas Company, d/b/a Nicor Gas (Nicor): Contract No. FA0167 and FA0168. Midwestern explains that these contracts provide the following information: (1) The exact legal name of the shipper; (2) the total charges (the negotiated rate and all applicable charges); (3) the receipt and delivery points; (4) the volume of gas to be transported; and (5) the applicable rate schedule for the service. In addition, Midwestern is filing Sheet No. 273 to reflect that the Negotiated Rates contain non-conforming terms. Midwestern states that Sheet No. 273 also contains a minor housekeeping change, and that contract numbers have been added to identify each non-conforming agreement that is listed on Sheet No. 273.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas

Secretary.

[FR Doc. 03–11806 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–468–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 2003.

Take notice that on May 2, 2003, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective on June 1, 2003:

Fourth Revised Sheet Number 201
Second Revised Sheet Number 270

Midwestern states that it is filing revised tariff sheets to allow Rate Schedule FT-A Shippers entering into a new transportation agreement, or extensions of the initial term of their transportation agreement, the right to reduce their Transportation Quantity under specified circumstances as proposed in section 26 of the General Terms and Conditions of Midwestern's FERC Gas Tariff.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11939 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–398–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 2003.

Take notice that on May 1, 2003, Northern Natural Gas Company (Northern) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets set forth in Appendix A to the filing, with an effective date of June 1, 2003.

Northern states that the filing is being made to effectuate changes in the rates and terms applicable to Northern's jurisdictional services. Northern indicates that the effect of the rate case is an overall increase in revenues of approximately $55 million above the Base Period revenues, as proposed to be effective.

Northern states that the changes reflected in the Revised Tariff Sheets are required to effectuate the rate increase and to make certain changes to Northern's tariff. In addition, Northern proposes Pro Forma Tariff Sheets which reflect further changes to become effective on a prospective basis following a Commission order on the merits or a settlement of this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and

Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11800 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–460–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 2003.

Take notice that on May 1, 2003, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, and Original Volume No. 1, the following tariff sheets to be effective June 1, 2003:

Fifth Revised Volume No. 1

Sixty-Fourth Revised Sheet No. 50
Sixty-Fifth Revised Sheet No. 51
Thirtieth Revised Sheet No. 52
Sixty-Third Revised Sheet No. 53
Twenty-First Revised Sheet No. 59
Fifth Revised Sheet No. 59A
Twenty-Fourth Revised Sheet No. 60
Fifth Revised Sheet No. 60A

Original Volume No. 1

170 Revised Sheet No. 1C

Northern states that it is filing to adjust its rates effective June 1 to reflect the rate impact of the return and tax components associated with the System Levelized Account (SLA) balance as of March 31, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11803 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–042]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rates

May 6, 2003.

Take notice that on May 1, 2003, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1–A., Eleventh Revised Sheet No. 15 and Third Revised Sheet No. 18, with an effective date of May 1, 2003.

GTN states that these sheets are being filed to reflect the implementation of one new negotiated rate agreement and to update the termination dates of two existing negotiated rate agreements.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11808 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–13–008]

Portland Natural Gas Transmission System; Notice of Report of Refunds

May 6, 2003.

Take notice that on April 11, 2003, Portland Natural Gas Transmission System (PNGTS), tendered for filing a refund report in the above captioned proceeding.

PNGTS states that the report documents refunds made to customers in accordance with section 2.2 of a Stipulation and Settlement Agreement filed with the Commission on October 25, 2002 in Docket No. RP02–13, and approved by the Commission's Order issued on January 14, 2002. PNGTS states that it completed the refunds on March 26, 2003.

PNGTS states that copies of the filing have been served to the affected Shippers and the State Commission's of affected Shippers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the comment date below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11797 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–469–000]

Questar Pipeline Company; Notice of Tariff Filing

May 7, 2003.

Take notice that on May 2, 2003, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1 the following tariff sheets to be effective June 1, 2003.

Original Sheet Nos. 99.01 and 99.02
Third Revised Sheet No. 110
Second Revised Sheet No. 122
Fourth Revised Sheet No. 160
Second Revised Sheet No. 174

Questar states that it is proposing new tariff provisions that describe specific types of discounts that may be offered to its transportation and storage customers on a non-discriminatory basis so that such discounts will not be considered material deviations from Questar's forms of service agreements. Questar states that the discounts will be between Questar's maximum and minimum rates under the applicable rate schedules of its tariff. Questar asserts that approval of these discount provisions will enhance Questar's flexibility to provide a variety of discounts for its shippers without the need and administrative burden of filing individual agreements with the Commission as non-conforming service agreements.

Questar states that within the proposed categories of eligible discounts, it is also seeking authority to provide it and its shippers with the ability to adjust rate components in transportation service agreements under certain circumstances in order to preserve the agreed upon overall rate, as long as all rate components remain within the applicable minimum and maximum rates.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11940 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–027]

Questar Pipeline Company; Notice of Negotiated Rates

May 7, 2003.

Take notice that on May 1, 2003, Questar Pipeline Company (Questar) tendered for filing a tariff filing to reflect a new negotiated-rate contract with BP Energy Company.

Questar states that its negotiated-rate contract provisions were authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.* Questar states that the Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar states that it submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 issued January 31, 1996.

Questar states that a copy of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online

Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11942 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–470–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Proposed Changes in FERC Gas Tariff

May 7, 2003.

Take notice that on May 2, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below to become effective May 15, 2003:

First Revised Sheet No. 153
Second Revised Sheet No. 244
Second Revised Sheet No. 246

Southern Star states that the tariff sheets filed herewith are being submitted to provide an alternative cash-out pricing index in the event that Inside FERC's Gas Market Report does not publish a price for Southern Star.

Southern Star states that this filing provides an alternative to the Inside FERC Gas Market Report, to be used only when necessary. Southern Star asserts that no other change in the terms and conditions under which cash-out may occur are tendered.

Southern Star states that copies of the tariff sheets are being mailed to Southern Star's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11941 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–83–000, et al.]

Katahdin Paper Company LLC, et al.; Electric Rate and Corporate Filings

May 6, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Katahdin Paper Company LLC, Great Northern Paper, Inc.

[Docket No. EC03–83–000]

Take notice that on April 30, 2003, Katahdin Paper Company LLC (Katahdin) and Great Northern Paper, Inc. (GNP) submitted for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, and part 33 of the Commission's regulations, an application for authorization for GNP to sell steam generation and appurtenant facilities to Katahdin.

Comment Date: May 21, 2003.

2. Citizens Communications Company

[Docket No. ER03–548–001]

The notice of filing issued by the Commission on April 17, 2003, in the above-referenced proceeding is hereby rescinded.

3. Citizens Communications Company

[Docket No. ER03–584–001]

Take notice that on April 11, 2003, Citizens Communications Company (Citizens) tendered for filing a Notice of Cancellation of Rate Schedule 46, applicable to sales-for-resale service to Mohave Electric Cooperative.

Citizens states that copies of this filing have been served to Mohave Electric Cooperative and Arizona Corporation Commission.

Comment Date: May 16, 2003.

4. PJM Interconnection, L.L.C.

[Docket No. ER03–807–000]

Take notice that on May 1, 2003, PJM Interconnection, L.L.C. (PJM), submitted for filing amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. to increase the megawatt limit for participation in the Non-Hourly Metered Customer Pilot programs of the PJM Emergency Load Response Program and PJM Economic Load Response Program from an aggregate of 25 MW for both programs to an aggregate of 100 MW for both programs.

PNM states that copies of this filing have been served on all PJM members and each state electric utility regulatory commission in the PJM region.

Comment Date: May 22, 2003.

5. PJM Interconnection, L.L.C.

[Docket No. ER03–808–000]

Take notice that on May 1, 2003, PJM Interconnection, L.L.C. (PJM) filed additional conforming changes to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) and the PJM Open Access Transmission Tariff (Tariff) to further reflect the elimination of the ''available capacity'' approach from PJM West and its replacement with an ''unforced capacity'' approach for the entire PJM region, as requested by PJM in Docket No. ER03–703–000.

PJM states that it proposes an effective date of June 1, 2003, for the Tariff revisions, to conform with the requested effective date in ER03–703–000, and July 1, 2003, for the Operating Agreement revisions. PJM further states that copies of its filing were served upon all PJM members and each state electric utility regulatory commission in the PJM region.

Comment Date: May 22, 2003.

6. FPL Energy New England Transmission, LLC

[Docket No. ER03–809–000]

Take notice that on May 2, 2003, FPL Energy New England Transmission, LLC (FPLE NET) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 205 of the Federal Power Act, an executed Interconnection and Operating

Agreement between FPLE NET and FPL Energy Seabrook, LLC (FPLE Seabrook) that sets forth the terms and conditions governing the interconnection of FPLE Seabrook's generating facility to FPLE NET's 345 kV substation.

Comment Date: May 23, 2003.

7. New York Independent System Operator, Inc.

[Docket No. ER03–810–000]

Take notice that on May 2, 2003, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services (Services Tariff) to introduce certain enhancements to its Incentivized Day-Ahead Economic Load Curtailment Program, more commonly known as the Day-Ahead Demand Reduction Program.

The NYISO has requested an effective date of July 1, 2003, for the filing.

The NYISO states that it has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff or Market Administration and Control Area Services Tariff.

Comment Date: May 23, 2003.

8. Entergy Services, Inc.

[Docket No. ER03–811–000]

Take notice that on May 2, 2003, Entergy Services, Inc. (Entergy), on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing an unexecuted, amended and restated Interconnection and Operating Agreement and an updated Generator Imbalance Agreement with Occidental Chemical Corporation (Occidental).

Comment Date: May 23, 2003.

9. William L. Cyr

[Docket No. ID–3872–000]

Take notice that on April 25, 2003, William L. Cyr filed with the Federal Energy Regulatory Commission (Commission) an application for authority to hold interlocking positions between Northern Maine Independent System Administrator, Inc. and Maine Public Service Company.

Comment Date: May 27, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11930 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1858–002, et al.]

New Hampshire Electric Cooperative, Inc., et al.; Electric Rate and Corporate Filings

May 2, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. New Hampshire Electric Cooperative, Inc.

[Docket No. ER00–1858–002]

Take notice that on April 30, 2003, New Hampshire Electric Cooperative, Inc. tendered for filing an updated market analysis and report of changes in status in compliance with the Commission's Order, issued April 25, 2000, in New Hampshire Electric Cooperative, Inc., 91 FERC § 61,073.

New Hampshire Electric Cooperative, Inc., states that copies of this filing have been served to all parties in Docket No. ER00–1858–000.

Comment Date: May 21, 2003.

2. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–265–002]

Take notice that on April 29, 2003, Midwest Independent Transmission System Operator, Inc., submitted a compliance filing in accordance with the Federal Energy Regulatory Commission's Order issued January 29, 2003, in Docket No. ER03–265–000 regarding refunds made on March 28, 2003, to certain Transmission Customers.

Comment Date: May 20, 2003.

3. Northern Indiana Public Service Company

[Docket No. ER03–640–001]

Take notice that on April 30, 2003, Northern Indiana Public Service Company (Northern Indiana) filed a Power Service Agreement with the Town of Argos, Indiana (Argos). Northern Indiana has requested an effective date of March 1, 2003.

Northern Indiana states that copies of this filing have been sent to Argos, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment Date: May 21, 2003.

4. Northern Indiana Public Service Company

[Docket No. ER03–786–000]

Take notice that on April 30, 2003, Northern Indiana Public Service Company (Northern Indiana) filed a Service Agreement pursuant to its Wholesale Market-Based Rate Tariff with Split Rock Energy, L.L.C. (Split Rock). Northern Indiana has requested an effective date of April 30, 2003.

Northern Indiana states that copies of this filing have been sent to Split Rock, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment Date: May 21, 2003.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–787–000]

Take notice that on April 23, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and section 35.12 of the Commission's regulations, submitted for filing an unexecuted Interconnection and Operating Agreement among Interstate Power and Light Company, a wholly owned subsidiary of Alliant Energy Corporation and Flying Cloud Power Partners, LLC.

Midwest ISO states that a copy of this filing was sent to Interstate Power and

Light Company and Flying Cloud Power Partners, LLC.

Comment Date: May 21, 2003.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–788–000]

Take notice that on April 30, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and section 35.12 of the Commission's regulations, submitted for filing an Interconnection Agreement among Cinergy Services, Inc. and The City of Hamilton, Ohio.

Midwest ISO states that a copy of this filing was sent to Cinergy Services, Inc. and The City of Hamilton, Ohio.

Comment Date: May 21, 2003.

7. Tampa Electric Company

[Docket No. ER03–789–000]

Take notice that on April 30, 2003, Tampa Electric Company (Tampa Electric) tendered for filing revised rate schedule sheets containing updated rates for emergency interchange service and scheduled/short-term firm interchange service under its interchange contracts with each of 17 other utilities. Tampa Electric indicates that it also tendered for filing revised sheets for inclusion in its open access transmission tariff (OATT) that contain an updated system average transmission loss percentage.

Tampa Electric requests that the revised rate schedule and tariff sheets be made effective on May 1, 2003, and therefore requests waiver of the Commission's notice requirement.

Tampa Electric states that a copy of the filing has been served upon each of the parties to the affected interchange contracts and each customer under its OATT, as well as the Florida and Georgia Public Service Commissions.

Comment Date: May 21, 2003.

8. Tampa Electric Company

[Docket No. ER03–790–000]

Take notice that on April 30, 2003, Tampa Electric Company (Tampa Electric) tendered for filing revised rate schedule sheets containing updated transmission service rates under its agreements to provide qualifying facility transmission service for Cargill Fertilizer, Inc. (Cargill) and Auburndale Power Partners, Limited Partnership (Auburndale).

Tampa Electric proposes that the revised sheets containing the updated transmission service rates be made effective on May 1, 2003, and therefore requests waiver of the Commission's notice requirement. Tampa Electric states that copies of the filing have been served on Cargill, Auburndale, and the Florida Public Service Commission.

Comment Date: May 21, 2003.

9. California Power Exchange Corporation

[Docket No. ER03–791–000]

Take notice that on April 30, 2003, the California Power Exchange Corporation (CalPX) tendered for filing its Rate Schedule for the period July 1, 2003 through December 31, 2003. CalPX states that it files this Rate Schedule pursuant to the Commission's Orders of August 8, 2002 (100 FERC § 61,178), in Docket No. ER02–2234–000, and April 1, 2003 (103 FERC § 61,001) issued in Docket Nos. EC03–20–000 and EC03–20–001, which require CalPX to make a new rate filing every six months to recover current expenses. CalPX indicates that the Rate Schedule covers expenses projected for the period July 1 through December 31, 2003, and CalPX requests an effective date of July 1, 2003.

CalPX states that it has served copies of the filing on its participants, on the California ISO, and on the California Public Utilities Commission.

Comment Date: May 21, 2003.

10. Tampa Electric Company

[Docket No. ER03–792–000]

Take notice that on April 30, 2003, Tampa Electric Company (Tampa Electric) tendered for filing revised rate schedule sheets containing updated caps on energy charges for emergency assistance service under its interchange service contract with Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company, as represented by agent Southern Company Services, Inc., (collectively, Southern Companies).

Tampa Electric requests that the revised rate schedule sheets be made effective on May 1, 2003, and therefore requests waiver of the Commission's notice requirement. Tampa Electric states that a copy of the filing has been served upon Southern Companies and the Florida and Public Service Commissions.

Comment Date: May 21, 2003.

11. New England Power Company

[Docket No. ER03–793–000]

Take notice that on April 30, 2003, New England Power Company (NEP) submitted for filing a revised service agreement between NEP and AES Londonderry, L.L.C. (AES) for firm local generation delivery service under NEP's FERC Electric Tariff, Second Revised Volume No. 9, First Revised Service Agreement No. 204.

NEP states that copies of the filing were served upon AES and the New Hampshire Public Utilities Commission.

Comment Date: May 21, 2003.

12. Duke Energy Fayette, LLC

[Docket No. ER03–794–000]

Take notice that on April 30, 2003, Duke Energy Fayette, LLC (Duke Fayette) tendered for filing its proposed tariff and supporting cost data for its Monthly Revenue Requirement (Fayette Tariff) under PJM Interconnection, L.L.C.'s (PJM) Schedule 2—Reactive Supply and Voltage Control from Generation Sources Service. Duke Fayette requests an effective date of the first day of the month immediately following the Commission's acceptance of this filing to correspond to PJM's billing cycle.

Duke Fayette states that it has served copies of the filing on the Pennsylvania Public Utilities Commission, PJM and Allegheny Power.

Comment Date: May 21, 2003.

13. Southern California Edison Company

[Docket No. ER03–795–000]

Take notice that on April 30, 2003, Southern California Edison Company (SCE) tendered for filing revised rate sheets (Revised Sheets) to the Agreement For Interconnection Service and the Interconnection Facilities Agreement between SCE and Harbor Cogeneration Company (Harbor), Service Agreement Nos. 2 and 9 under SCE's FERC Electric Tariff, First Revised Volume No. 6. SCE respectfully requests an effective date of April 30, 2003.

SCE states that the Revised Sheets to these agreements reflect an extension of their terms and conditions to provide interconnection service to Harbor's 110 MW generating facility through June 30, 2003. SCE also states that copies of this filing were served upon the Public Utilities Commission of the State of California and Harbor.

Comment Date: May 21, 2003.

14. Katahdin Paper Company LLC

[Docket No. ER03–796–000]

Take notice that on April 30, 2003, Katahdin Paper Company LLC (Katahdin) submitted for filing, pursuant to section 205 of the Federal Power Act, and part 35 of the Commission's regulations, an application for market-based rate authorization to sell energy, capacity and specified ancillary services, waivers and exemption. Katahdin requests an effective date of May 30, 2003, for its market-based rate authorization.

Comment Date: May 21, 2003.

15. Ohio Edison Company

[Docket No. ER03–797–000]

Take notice that on April 30, 2003, FirstEnergy Service Company, on behalf of Ohio Edison Company, tendered for filing a Notice of Cancellation of Ohio Edison Company Rate Schedule FPC No. 67, a June 20, 1968, resale agreement with Ohio Power Company that was originally filed with the Commission on June 24, 1968. FirstEnergy requests an effective date of June 30, 2003.

Ohio Edison Company states that a copy of this filing has been served on Ohio Power Company, the counterparty to the agreement, and the Public Utilities Commission of Ohio.

Comment Date: May 21, 2003.

16. The Toledo Edison Company

[Docket No. ER03–798–000]

Take notice that on April 30, 2003, FirstEnergy Service Company on behalf of The Toledo Edison Company filed a Notice of Cancellation for The Toledo Edison Company Rate Schedule FPC No. 2, a January 1, 1968, Power Delivery Agreement with Buckeye Power, Inc. (Buckeye), which was originally accepted in FPC Docket No. E–7355. FirstEnergy requests an effective date of June 30, 2003.

The Toledo Edison Company states that a copy of this filing has been served on Buckeye, American Electric Power Service Corporation, on behalf of Ohio Power Company and Columbus Southern Power Company, The Cincinnati Gas & Electric Company, Dayton Power & Light Company, Monongahela Power Company, the counterparties to the agreement, and the Public Utilities Commission of Ohio.

Comment Date: May 21, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11931 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process

May 7, 2003.

a. *Type of Application:* Alternative Licensing Process.

b. *Project No.:* 2545–075.

c. *Applicant:* Avista Corporation.

d. *Name of Project:* Spokane River Hydroelectric Project.

e. *Location:* On the Spokane River, in Spokane, Stevens, and Lincoln Counties, Washington and Kootenai and Benewah Counties, Idaho. The project occupies tribal lands of the Coeur d'Alene Indian Reservation. The project does not occupy any federal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Bruce Howard, Spokane River License Manager, Avista Corporation, 1411 E. Mission Street, P.O. Box 3727, MSC–1, Spokane, Washington 99220, (509) 495–2941, or e-mail: *bruce.howard@avistacorp.com*.

h. *FERC Contact:* Nan Allen at (202) 502–6128, or e-mail: *nan.allen@ferc.gov*.

j. *Deadline for filing scoping comments:* 60 days from the date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The project consists of five developments and appurtenant facilities. The Post Falls development consists of the 48,000-acre Coeur d'Alene Lake with a useable storage capacity of 223,100 acre-feet; a 431-foot-long and 31-foot-high spillway dam across the north channel, a 127-foot-long and 25-foot-high spillway dam across the south channel, and a 215-foot-long and 64-foot-high dam across the middle channel and forming the east wall of the powerhouse; six 56-foot-long penstocks; and a powerhouse with an installed capacity of 15 megawatts (MW).

The Upper Falls development consists of a 366-foot-long, 39-foot-high dam at 1,871 feet elevation; an 800-acre-foot reservoir; a channel leading to an intake structure; a 350-foot-long penstock, and a powerhouse with an installed capacity of 10 MW.

The Monroe Street development consists of a 240-foot-long, 24-foot-high dam with crest elevation of 1,806 feet; a 30-acre-foot reservoir; a 435-foot-long penstock; and an underground powerhouse with an installed capacity of 14.82 MW.

The Nine Mile development consists of a 464-foot-long, 58-foot-high dam with a crest elevation of 1596.6 feet without flashboards and 1606.6 feet with flashboards; a reservoir with 4,600 acre-feet of storage capacity; and a powerhouse with an installed capacity of 26 MW.

The Long Lake development consists of a 593-foot-long, 247-foot-high dam; a 108,080-acre-foot reservoir with a normal pool elevation of 1,536 feet; four 216-foot-long penstocks, and a powerhouse with an installed capacity of 71 MW.

l. *Scoping Process*: Avista Corporation (Avista) is using the Federal Energy Regulatory Commission's (Commission) alternative licensing process (ALP). Under the ALP, Avista will prepare an Applicant Prepared Environmental

Assessment (APEA) and license application for the Spokane River Hydroelectric Project.

Avista expects to file with the Commission, the APEA and the license application for the Spokane River Hydroelectric Project by July 31, 2005. Although Avista's intent is to prepare an EA, there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

The purpose of this notice is to inform you of the opportunity to participate in the upcoming scoping meetings identified below, and to solicit your scoping comments.

Scoping Meetings

Avista will hold two scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the APEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the environmental issues that should be analyzed in the APEA. The times and locations of these meetings are as follows:

Daytime meeting	Evening meeting
Tuesday, June 3, 2003, 2 p.m. Avista Corporation, 1411 E. Mission St., Spokane, Washington.	Tuesday, June 3, 2003, 6:30 p.m. Avista Corporation, 1411 E. Mission St., Spokane, Washington.

To help focus discussions, Scoping Document 1 was mailed on about May 6, 2003, outlining the subject areas to be addressed in the APEA to the parties on the mailing list. Copies of the SD1 also will be available at the scoping meetings. SD1 is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Register online at *http://www.ferc.gov* /esubscribenow.htm to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Based on all written comments received, a Scoping Document 2 (SD2) may be issued. SD2 will include a revised list of issues, based on the scoping sessions.

Objectives

At the scoping meetings, Avista will: (1) Summarize the environmental issues tentatively identified for analysis in the APEA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the APEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the APEA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist Avista in defining and clarifying the issues to be addressed in the APEA.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11932 Filed 5–12–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend

May 7, 2003.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 14, 2003, (within a relatively short time before or after the regular Commission meeting).

PLACE: Room 3M 4A/B, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-public investigations and inquiries and enforcement related matters.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502–8400.

Chairman Wood and Commissioners Massey and Brownell voted to hold a closed meeting on May 14, 2003. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11950 Filed 5–8–03; 4:37 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

May 7, 2003.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C 552B:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: May 14, 2003. 10 a.m.

Place: Room 2C, 888 First Street, NE., Washington, DC 20426.

Status: Open.

Matters to be Considered: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

Contact Person for more Information: Magalie R. Salas, Secretary, Telephone (202) 502–8400. For a recording listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Administrative Agenda

A–1.

Docket#, AD02–1, 000, Agency Administrative Matters.

A–2.
Docket#, AD02–7, 000, Customer Matters, Reliability, Security and Market Operations.
A–3.
Docket#, AD03–9, 000, Regional Market Monitor State of the Market Presentations.

Markets, Tariffs and Rates—Electric

E–1.
Omitted
E–2.
Omitted
E–3.
Docket#, ER03–421, 000, PPL Wallingford Energy LLC.
Other#s, ER03–421, 001, PPL Wallingford Energy LLC.
E–4.
Omitted
E–5.
Docket#, ER03–432, 000, SP Newsprint Co.
Other#s, ER03–432, 001, SP Newsprint Co.
E–6.
Omitted
E–7.
Docket#, ER03–549, 000, Southern California Edison Company.
Other#s, ER03–549, 001, Southern California Edison Company.
E–8.
Docket#, ER03–573, 000, Midwest Independent Transmission System Operator, Inc.
E–9.
Docket#, ER03–689, 000, WPS Canada Generation, Inc.
Other#s, ER03–689, 001, WPS Canada Generation, Inc.
E–10.
Docket#, ER03–688, 000, Michigan Electric Transmission Company, LLC.
E–11.
Docket#, ER03–704, 000, Yankee Atomic Electric Company.
E–12.
Omitted
E–13.
Docket#, ER02–2189, 000, Southern California Edison Company.
E–14.
Docket#, ER03–452, 000, Conjunction LLC.
E–15.
Docket#, ER02–2314, 000, RockGen Energy, LLC.
Other#s, ER02–2314, 001, RockGen Energy, LLC.
E–16.
Docket#, ER03–574, 000, Midwest Independent Transmission System Operator, Inc.
E–17.
Omitted
E–18.
Docket#, ER02–290, 002, Midwest Independent Transmission System Operator, Inc.
E–19.
Docket#, EL02–18, 001, NEO California Power LLC.
E–20.
Docket#, ER01–2099, 002, Neptune Regional Transmisson System, LLC.
E–21.
Docket#, ER02–107, 001, Midwest Independent Transmission System Operator, Inc.
Other#s, ER02–107, 002, Midwest Independent Transmission System Operator, Inc.
E–22.
Docket#, ER01–1807, 005, Carolina Power and Light Company and Florida Power Corporation.
Other#s, ER01–1807, 006, Carolina Power and Light Company and Florida Power Corporation.
ER01–2020, 002, Carolina Power and Light Company and Florida Power Corporation.
ER01–2020, 003, Carolina Power and Light Company and Florida Power Corporation.
E–23.
Docket#, RT01–87, 005, Midwest Independent Transmission System Operator, Inc.
Other#s, RT01–87, 006, Midwest Independent Transmission System Operator, Inc.
ER02–108, 004, Midwest Independent Transmission System Operator, Inc.
ER02–108, 002, Midwest Independent Transmission System Operator, Inc.
ER02–106, 001, Midwest Independent Transmission System Operator, Inc.
E–24.
Docket#, EC02–71, 001, American Transmission Systems, Inc., and PJM Interconnection, L.L.C.
Other#s, ER02–1865, 001, American Transmission Systems, Inc., and PJM Interconnection, L.L.C.
E–25.
Docket#, ER02–111, 006, Midwest Independent Transmission System Operator, Inc.
Other#s, ER02–111, 007, Midwest Independent Transmission System Operator, Inc.
ER02–652, 004, Midwest Independent Transmission System Operator, Inc.
E–26.
Docket#, EC03–14, 001, Ameren Services Company, First Energy Corp., Northern Indiana Public Service Company, National Grid USA, and Midwest Independent Transmission System Operator, Inc.
Other#s, ER02–2233, 002, Ameren Services Company, First Energy Corp., Northern Indiana Public Service Company, National Grid USA, and Midwest Independent Transmission System Operator, Inc.
ER02–2233, 003, Ameren Services Company, First Energy Corp., Northern Indiana Public Service Company, National Grid USA, and Midwest Independent Transmission System Operator, Inc.
E–27.
Docket#, ER03–86, 001, Midwest Independent Transmission System Operator, Inc.
Other#s, ER03–86, 002, Midwest Independent Transmission System Operator, Inc.
EL03–122, 000, Midwest Independent Transmission System Operator, Inc.
E–28.
Docket#, ER03–265, 001, Midwest Independent Transmission System Operator, Inc.
E–29.
Docket#, EL03–35, 002, Midwest Independent Transmission System Operator, Inc.
E–30.
Docket#, ER02–1326, 003, PJM Interconnection, L.L.C.
Other#s, ER02–1326, 004, PJM Interconnection, L.L.C.
ER02–1326, 005, PJM Interconnection, L.L.C.
E–31.
Docket#, OA97–261, 004, Pennsylvania-New Jersey-Maryland Interconnection.
Other#s, EC96–28, 005, Atlantic City Electric Company, Baltimore. Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
EC96–28, 006, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
EC96–29, 005, PECO Energy Company.
EC96–29, 006, PECO Energy Company.
EL96–69, 005, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
EL96–69, 006, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
ER96–2516, 005, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
ER96–2516, 006, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric

Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company.
ER96–2668, 005, PECO Energy Company.
ER96–2668, 006, PECO Energy Company.
EC97–38, 003, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, Public Service Electric and Gas Company, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, and Metropolitan Edison Company.
EC97–38, 004, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, Public Service Electric and Gas Company, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, and Metropolitan Edison Company.
EL97–44, 003, Pennsylvania-New Jersey-Maryland Interconnection Restructuring.
EL97–44 004, Pennsylvania-New Jersey-Maryland Interconnection Restructuring.
OA97–261, 005, Pennsylvania-New Jersey-Maryland Interconnection.
OA97–678, 003, PJM Interconnection, L.L.C.
OA97–678, 004, PJM Interconnection, L.L.C.
ER97–1082, 006, Pennsylvania-New Jersey-Maryland Interconnection.
ER97–1082, 007, Pennsylvania-New Jersey-Maryland Interconnection.
ER97–3189, 032, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, and Metropolitan Edison Company.
ER97–3189, 033, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, and Metropolitan Edison Company.
ER97–3273, 003, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, Public Service Electric and Gas Company, and Pennsylvania-New Jersey-Maryland Interconnection Restructuring.
ER97–3273, 004, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, Public Service Electric and Gas Company, and Pennsylvania-New Jersey-Maryland Interconnection Restructuring.
E–32.
Docket#, ER02–2234, 009, California Power Exchange Corporation.
Other#s
ER02–2234, 008, California Power Exchange Corporation.
ER03–139, 004, California Power Exchange Corporation.
ER03–139, 005, California Power Exchange Corporation.
E–33.
Omitted
E–34.
Docket#, EL03–118, 000, Wilbur Power LLC.
Other#s,
QF83–168, 005, Wilbur Power LLC.
E–35.
Docket#, EL02–77, 000, Puget Sound Energy, Inc.
E–36.
Docket#, NJ03–2, 000, Southern Illinois Power Cooperative.
E–37.
Docket#, EL03–38, 000, Cargill Power Markets, LLC.
E–38.
Docket#, EL98–6, 001, Old Dominion Electric Cooperative v. Public Service Electric and Gas Company.
E–39.
Omitted
E–40.
Docket#, EG03–50, 000, FPL Energy New England Transmission, LLC.
E–41.
Docket#, ER03–83, 001, TRANSLink Development Company, LLC.

Miscellaneous

M–1.
Reserved

Markets, Tariffs and Rates—Gas

G–1.
Docket#, RP03–339, 000, Southern Star Central Gas Pipeline, Inc.
Other#s, RP03–339, 001, Southern Star Central Gas Pipeline, Inc.
G–2.
Omitted
G–3.
Docket#, RP03–343, 000, Northern Natural Gas Company.
G–4.
Docket#, PR03–6, 000, EPGT Texas Pipeline, LP.
G–5.
Docket#, RP98–39, 000, Northern Natural Gas Company.
Other#s, SA98–101, 000, Continental Energy.
G–6.
Docket#, RP02–361, 006, Gulfstream Natural Gas System, L.L.C.
G–7.
Docket#, RP00–337, 005, Kern River Gas Transmission Company.
G–8.
Docket#, RP00–495, 003, Texas Gas Transmission Corporation.
Other#s, RP00–495, 004, Texas Gas Transmission Corporation.
RP01–97, 002, Texas Gas Transmission Corporation.
RP01–97, 003, Texas Gas Transmission Corporation.
RP03–211, 000, Texas Gas Transmission Corporation.
G–9.
Docket#, RP03–162, 002, Trailblazer Pipeline Company.
Other#s,
RP03–162, 000, Trailblazer Pipeline Company.
G–10.
Docket#, RP99–301, 027, ANR Pipeline Company.
Other#s, RP99–301, 031, ANR Pipeline Company.
GT01–25, 002, ANR Pipeline Company.
G–11.
Docket#, RP00–343, 004, Kinder Morgan Interstate Gas Transmission, LLC.
Other#s
RP00–343, 005, Kinder Morgan Interstate Gas Transmission, LLC.
RP00–629, 001, Kinder Morgan Interstate Gas Transmission, LLC.
G–12.
Docket#, RP00–469, 002, East Tennessee Natural Gas Company.
Other#s, RP00–469, 003, East Tennessee Natural Gas Company.
RP01–22, 004, East Tennessee Natural Gas Company.
RP01–22, 005, East Tennessee Natural Gas Company.
RP03–177, 000, East Tennessee Natural Gas Company.
G–13.
Docket#, RP00–333, 002, Crossroads Pipeline Company.
Other#s, RP00–333, 003, Crossroads Pipeline Company.
RP01–51, 002, Crossroads Pipeline Company.
G–14.
Docket#, RP02–99, 006, Shell Offshore Inc. v. Transcontinental Gas Pipe Line Corporation, Williams Gas Processing-Gulf Coast Company, L.P., Williams Field Services Company and Williams Gulf Coast Gathering Company, L.L.C.
G–15.
Docket#, RP02–309, 001, Sunoco, Inc. (R&M) v. Transcontinental Gas Pipe Line Corporaton.
G–16.
Docket#, RP02–456, 001, Discovery Gas Transmission LLC.
Other#s, RP02–456, 002, Discovery Gas Transmission LLC.
RP02–456, 003, Discovery Gas Transmission LLC.
G–17.
Docket#, RP03–12, 001, Kinder Morgan Interstate Gas Transmission LLC.
G–18.
Docket#, RP00–409, 002, Natural Gas Pipeline Company of America.
Other#s, RP00–409, 003, Natural Gas Pipeline Company of America.
RP00–631, 003, Natural Gas Pipeline Company of America.
RP00–631, 004, Natural Gas Pipeline Company of America.
G–19.
Omitted
G–20.
Docket#, RP96–200, 098, CenterPoint Energy Gas Transmission Company.
Other#s, RP96–200, 099, CenterPoint Energy Gas Transmission Company.
G–21.
Docket#, RP98–54, 036, Colorado Interstate Gas Company.
Other#s, RP98–54, 037, Colorado Interstate Gas Company.
G–22.
Docket#, RP00–533, 007, Algonquin Gas Transmission Company.

G–23.
Docket#, RP00–535, 007, Texas Eastern Transmission, LP.
G–24.
Docket#, IS01–482, 002, Mid-America Pipeline Company.
G–25.
Docket#, OR02–4, 002, Chevron Products Company v. SFPP, L.P.
G–26.
Docket#, RP03–243, 000, Nicole Energy Services, Inc.
G–27.
Omitted
G–28.
Docket#, RP01–208, 000, Amoco Production Company, BP Exploration & Oil, Inc., Chevron U.S.A. Inc., ExxonMobil Gas Marketing Company, a division of Exxon Mobil Corporation, and Shell Offshore Inc.
G–29.
Docket#, RP02–356, 000, Canyon Creek Compression Company.
Other#s, RP02–356, 002, Canyon Creek Compression Company.
RP02–356, 001, Canyon Creek Compression Company.
G–30.
Omitted
G–31.
Docket#, OR02–10, 000, Shell Pipeline Company LP.

Energy Projects—Hydro

H–1.
Docket#, P–7115, 034, Homestead Energy Resources, LLC.
H–2.
Docket#, P–12154, 001, Canada Creek Corporation.

Energy Projects—Certificates

C–1.
Docket#, CP02–430, 001, Saltville Gas Storage Company, L.L.C.
Other#s, CP02–430, 002, Saltville Gas Storage Company, L.L.C.
C–2.
Docket#, RM03–4, 000, Emergency Reconstruction of Interstate Natural Gas Facilities Under the Natural Gas Act.
Other#s, AD02–14, 000, Conference on Emergency Reconstruction of Interstate Natural Gas Infrastructure.
C–3.
Docket#, CP01–153, 004, Tuscarora Gas Transmission Company.
C–4.
Docket#, CP03–11, 000, Jupiter Energy Corporation.

Magalie R. Salas,

Secretary.

[FR Doc. 03–11951 Filed 5–8–03; 4:37 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7497–7]

National Advisory Council on Environmental Policy and Technology (NACEPT) Superfund Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory NACEPT subcommittee on Superfund; open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Superfund Subcommittee, a subcommittee of the National Advisory Council on Environmental Policy and Technology (NACEPT), will meet on the date and time described below. The meeting is open to the public. Seating will be on a first-come basis and limited time will be provided for public comment on each day.

DATES: The meeting will be held from 1 p.m. to 6 p.m. on June 17, 2003; from 8 a.m. to 6 p.m. on June 18, 2003.

ADDRESSES: The meeting will take place at the New Bedford Holiday Inn Express, 110 Middle Street, Fairhaven, MA 02719.

FOR FURTHER INFORMATION CONTACT: Angelo Carasea, Designated Federal Officer for the NACEPT Superfund Subcommittee, Office of Emergency and Remedial Response, Office of Solid Waste and Emergency Response, MC 5204G, 1200 Pennsylvania Ave., NW., Washington, DC, (703) 603–8828.

SUPPLEMENTARY INFORMATION:

Agenda

This fifth meeting of the Superfund Subcommittee will involve reports from the Subcommittee's working groups about their activities since the last Subcommittee meeting in March 2003. The agenda for the meeting will be available one week prior to the meeting's occurrence.

Public Attendance

The public is welcome to attend all portions of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public sessions are encouraged to contact the Designated Federal Official. Each day will have one public comment period.

Dated: May 7, 2003.

Angelo Carasea,

Designated Federal Officer, NACEPT Superfund Subcommittee.

[FR Doc. 03–11908 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0021; FRL–7308–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 31, 2003 to April 4, 2003, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket ID number OPPT–2003–0021 and the specific PMN number or TME number, must be received on or before June 12, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0021. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPPT–2003–0021. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2003–0021 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official

public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT),Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2003–0021 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. Youmay also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from March 31, 2003 to April 4, 2003, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 18 PREMANUFACTURE NOTICES RECEIVED FROM: 03/31/03 TO 04/18/03

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0451	04/01/03	06/30/03	Dow Corning Corporation	(S) Foam control agent for coatings	(G) Silicone polyether
P–03–0452	04/01/03	06/30/03	CBI	(G) Open, non-dispersive use.	(G) Water dispersible polyurethane
P–03–0453	04/01/03	06/30/03	CBI	(G) Open, non-dispersive use.	(G) Water dispersible polyurethane
P–03–0454	04/01/03	06/30/03	CBI	(G) Open, non-dispersive use.	(G) Water dispersible polyurethane
P–03–0455	04/01/03	06/30/03	CBI	(G) Open, non-dipersive use.	(G) Water dispersible polyurethane
P–03–0456	04/01/03	06/30/03	CBI	(G) Open, non-dipersive use.	(G) Water dispersible polyurethane
P–03–0457	04/01/03	06/30/03	CBI	(G) Open, non-dipersive use.	(G) Water dispersible polyurethane
P–03–0458	04/01/03	06/30/03	CMP Coatings, Inc.	(S) Binder polymer in paints	(S) 2-propenoic acid, 2-methyl-, methyl ester, polymer with butyl 2-propenoate, ethyl 2-propenoate, zinc bis(2-methyl-2-propenoate) and zinc di-2-propenoate, 2,2′-azobis[2-methylbutanenitrile]- and 2,2′-azobis[2-methylpropanenitrile]-initiated

I. 18 PREMANUFACTURE NOTICES RECEIVED FROM: 03/31/03 TO 04/18/03—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0459	04/02/03	07/01/03	CBI	(G) Polymeric admixture for cements	(G) Carboxylated modified poly(oxyalkylenediyl), calcium salt
P–03–0460	04/03/03	07/02/03	CBI	(G) Additive	(G) Modified polyester
P–03–0461	04/03/03	07/02/03	CBI	(G) Petroleum additive	(G) Fatty acid reaction products with alkanolamine
P–03–0462	04/03/03	07/02/03	CBI	(G) An open non-dispersive use	(G) Bisphenol a type epoxy resin, salt
P–03–0463	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Aromatic ultraviolet light stabilizer
P–03–0464	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Aromatic ultraviolet absorber
P–03–0465	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Aromatic ultraviolet light absorber
P–03–0466	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Ultraviolet light absorber
P–03–0467	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Ultraviolet light absorber
P–03–0468	04/03/03	07/02/03	Cytec Industries Inc.	(G) Ultraviolet stabilizer in plastics	(G) Aromatic ultraviolet light absorber

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 11 NOTICES OF COMMENCEMENT FROM:03/31/03 TO 04/04/03

Case No.	Received Date	Commencement/ Import Date	Chemical
P–02–0075	04/02/03	03/14/03	(G) Polyalkylene-vinyldimethoxymethylsilane polymer
P–02–0788	03/31/03	03/04/03	(G) Urethane acrylate ester
P–02–0839	04/02/03	03/11/03	(G) Modified acrylic polymer
P–02–0842	04/03/03	03/17/03	(G) Solid ultraviolet-curable resin
P–02–0849	03/31/03	03/06/03	(G) Fluoroalkene copolymer
P–02–0991	04/03/03	03/25/03	(G) Isocyanate terminated urethane polymer
P–03–0069	04/01/03	03/21/03	(G) Alkylaminoethylcarboxylic acid ester
P–03–0079	04/02/03	03/18/03	(G) Sulphonated azo dye
P–03–0088	03/31/03	03/25/03	(G) Amines, polyethylenepoly-, reaction products with (5 or 6)-carboxy-4-hexyl-2-cyclohexene-1-octanoic acid, pentaethylenehexamine and substituted polyamines
P–03–0188	04/01/03	03/28/03	(G) Fatty acids, tall-oil, reaction products with substituted ethyleneamines
P–97–0722	04/02/03	03/14/03	(G) Amino-functional siloxane

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: May 6, 2003.

Sandra R. Wilkins,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 03–11907 Filed 5–12–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 24, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 14, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202–418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0924.

Title: Report and Order in MM Docket No. 99–25—Creation of Low Power Radio Service.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; State, local or tribal governments.

Number of Respondents: 1,200 (multiple responses).

Estimated Time per Response: 0.0003 to 6 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 27,450 hours.

Total Annual Cost: $9,000.

Needs and Uses: The information collection requirements contained in MM Docket No. 99–25, Report and Order, will ensure that the integrity of the FM spectrum is not compromised. It will also ensure that unacceptable interference will not be caused to existing radio services and that the statutory requirements are met. These rules will ensure that the stations are operated in the public interest.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–11849 Filed 5–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 25, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 12, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the PRA information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0804.

Title: Universal Service—Health Care Providers Universal Service Program.

Form Nos.: FCC Forms 465, 466, 466–A, and 467.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 4,804 respondents; 5,605 responses.

Estimated Time Per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 8,805 hours.

Total Annual Cost: N/A.

Needs and Uses: In an effort to streamline the application process the reduce redundancy, the Commission is revising this information collection to merge the FCC Form 468 with the FCC Form 466. This will reduce the application burden for applicants to the rural health care universal service support mechanism, thereby eliminating the requirement for service providers to complete the FCC Form 468. The principal information previously obtained from the FCC Form 468 was the rural rate for telecommunications services for which applicants seek support. The Commission has determined that this can be obtained from existing information that applicants otherwise have in their possession (telephone bills, service ordering confirmation, or bid submitted by service provider) and provided directly on FCC Form 466. To implement this revised FCC Form 466 by July 1, 2003, we are requesting OMB approval by June 1, 2003.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–11850 Filed 5–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571; FCC 03–92]

Petition for Declaratory Ruling That the Provision of INTELSAT Space Segment by COMSAT Is Not an Interstate Service for Purposes of the TRS Fund

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission grants an Application for Review filed by COMSAT Corporation, acting through its business unit COMSAT World Systems (COMSAT). The Commission finds that, because the lease of space segment capacity does not constitute a telecommunications service, COMSAT was not required to contribute to the Telecommunications Relay Services (TRS) Fund on the basis of such services. The Commission therefore grants the application for review, and orders that COMSAT be refunded its prior TRS Fund contributions based on the provision of leased satellite space segment capacity.

DATES: Effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Diane Law-Hsu, Deputy Division Chief, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 90–571 released on April 24, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. The Commission grants an Application for Review filed by COMSAT Corporation, acting through its business unit COMSAT World Systems (COMSAT). COMSAT challenges a ruling by the former Common Carrier Bureau (Bureau), which concluded that COMSAT is required to contribute to the TRS Fund a portion of its revenues from the lease of satellite space segment capacity. COMSAT also seeks a refund of its prior TRS Fund contributions based upon

revenues from the lease of satellite space segment capacity. The Commission finds that, because the lease of space segment capacity does not constitute a telecommunications service, COMSAT was not required to contribute to the TRS Fund on the basis of such services. The Commission therefore grants the application for review, and order that COMSAT be refunded its prior TRS Fund contributions based on the provision of leased satellite space segment capacity.

II. Discussion

2. Before reaching the substantive issues before us, the Commission addresses procedural issues raised by COMSAT's Application for Review Supplement. Section 1.115(c) of our rules bars a party from presenting questions of law in an application for review that it did not raise in its pleading below. In its initial Petition, COMSAT only argued that its service was not an interstate service. Because it did not argue before the Bureau that the service did not qualify as telecommunications or a telecommunications service, § 1.115(c) of the Commission's rules would ordinarily act as a bar to raising the argument now. In addition, COMSAT failed to raise the argument in its original Application for Review, presenting it only in the supplement that was filed in 1999, long after the time for filing such supplements had expired.

3. The Commission has authority, however, to consider COMSAT's argument that its service did not constitute telecommunications or a telecommunications service on our own motion. In particular, the Commission has previously noted that it may use the pendency before it of a timely petition filed by a party as a basis for considering on the Commission's own motion arguments belatedly raised by the party. That circumstance is present here. COMSAT filed a timely application for review of the Bureau Decision. In addition, COMSAT reiterated its position when it submitted its TRS payments. Further, because the legal question of whether leased space segment is telecommunications has already been presented to and resolved by the full Commission, applying that ruling here is straightforward, consistent with the policy of not addressing arguments that have not previously been reviewed, and, as set forth, clearly dispositive of the pending matter. By contrast, were the Commission to ignore this issue, we would have to reach the legal question of whether COMSAT's lease of transponder capacity should be deemed an ''interstate'' service. The Commission therefore exercises our discretion to consider the ''telecommunications'/''telecommunications service'' argument.

4. Turning to the merits of COMSAT's Application for Review, the lease of bare space segment capacity can not constitute a ''telecommunications service,'' because the Commission previously determined that it is not ''telecommunications'' and does not involve the transmission of information. Section 64.604(c)(5)(iii)(A) of the Commission's rules states that ''[e]very carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end user telecommunications revenues.'' In the *TRS III Order,* 58 FR 39671, July 26, 1993, the Commission explained this rule by stating that ''[o]ur general approach is to identify all interstate common carrier services and to assess a contribution factor against the revenues from those services.'' Although the Act did not define ''common carrier services'' at that time, section 225 of the Communications Act, which governs TRS services, defines ''common carrier,'' in relevant part, as ''any common carrier engaged in interstate communication by wire or radio as defined in section 3 * * *'' Section 3, in turn, defines ''communication by radio'' as ''the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services * * * incidental to such transmission.''

5. Applying these definitions to the facts at hand, the Commission finds that, leasing bare space segment capacity, under these circumstances, does not constitute a common carrier service, because the satellite operator ''merely provid[es] its customer with the exclusive right to transmit to a specified piece of hardware on the satellite.'' Therefore, entities, including COMSAT, are not required to include revenues derived from leasing bare space segment capacity in determining their TRS contributions. This would normally end our inquiry and the refunds in issue could be ordered.

6. But because Congress mandated that COMSAT be regulated as a common carrier pursuant to section 401 of the Communications Satellite Act of 1962 (Satellite Act), a question exists about COMSAT's eligibility for refunds. All of the services COMSAT provides, even though some or all of them may involve the leasing of bare space segment capacity, are regulated as common carrier (*i.e.,* telecommunications) services under Title II of the Act. Does this fact mean that revenues from COMSAT's lease of bare space segment capacity, which is treated as common carriage due to section 401 of the Satellite Act, must be included in COMSAT's TRS contribution calculations? For the reasons given, the Commission concludes that section 401 does not require that COMSAT include revenues derived from leasing bare space segment capacity in determining its TRS contributions.

7. The Satellite Act authorized the formation of COMSAT and generally tasked it with the establishment of a single global telecommunications satellite system, which came to be known as INTELSAT. The Commission, in turn, was generally tasked by Congress to oversee COMSAT's implementation of the Satellite Act. Section 401 makes clear that the Commission was to exercise its statutory authority under the Communications Act to assure that COMSAT carried out the obligations imposed on it by Congress. The Commission was also to ensure ''nondiscriminatory use of, and equitable access to'' INTELSAT space segment ''under just and reasonable charges, classifications, practices, regulations, and other conditions.'' The common carrier regulation implemented pursuant to authority of section 401 over services COMSAT provides (even those such as lease of bare space segment capacity) afforded an effective and proven means to oversee COMSAT's special role and further the goals of the Satellite Act.

8. By contrast, a decision to treat COMSAT's lease of bare space segment capacity as common carriage (telecommunications service) for the purpose of contributions to the TRS Fund, does not even pertain to COMSAT's special role or advance any goals of the Satellite Act. Therefore, it would be unreasonable to read into section 401 or any other Satellite Act provision a requirement that the contributions in issue be made to the TRS Fund. Because COMSAT's TRS contributions, paid under protest subject to the pending challenge, were not, in fact, required by the Communications Act, Satellite Act, or the Commission's rules, the Commission grants COMSAT's request for a refund and direct NECA to refund the full amount of COMSAT's prior contributions based on the provision of leased bare space segment capacity.

III. Ordering Clause

9. It is ordered, pursuant to section 5(c)(5) of the Communications Act of

1934, as amended, 47 U.S.C. 155(c)(5), and § 1.115 of the Commission's rules, that the Application for Review filed on March 17, 1995 by COMSAT Corporation, through its business unit, COMSAT World Systems, is granted.

10. *It is further ordered that* NECA refund to COMSAT World Systems its contributions to the Telecommunications Relay Services fund in the amount of $503,201.51.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–11848 Filed 5–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 5:02 p.m. on Thursday, May 8, 2003, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman John M. Reich, seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Director James E. Gilleran (Director, Office of Thrift Supervision), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: May 8, 2003.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 03–11983 Filed 5–4–03; 11:24 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 6, 2003.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Tidelands Bancshares, Inc., Mount Pleasant, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Tidelands Bank, Mount Pleasant, South Carolina (in organization).

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Central Georgia Banking Company, Cochran, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Cochran, Cochran, Georgia.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Crockett Bancshares, Inc., Crockett, Texas, and Crockett Delaware Bancshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of First National Bank of Crockett, Crockett, Texas.

Board of Governors of the Federal Reserve System, May 7, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–11826 Filed 5–12–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting Notice

Agency Holding the Meeting: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, May 19, 2003.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 9, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–12005 Filed 5–9–03; 12:23 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Emergency Public Information and Communications Advisory Committee; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of series of three meetings of the Emergency Public Information and Communications Advisory Committee.

The purpose of these public meetings is to convene the Committee to discuss issues related to the appropriate ways to communicate public health information regarding bioterrorism and other public health emergencies to the nation. Major areas to be considered by the Committee at these meetings may include the following: an assessment of current practices within the public health community for communicating with the public regarding threats posed by bioterrorism and other public health emergencies, identification of those particular practices that warrant broad use and how such use might best be encouraged within the nation's public health community, and determination of where new or improved communication strategies and methods are needed and how they might best be developed.

Name of Committee: Emergency Public Information and Communications Advisory Committee.

Dates: June 2–3, 6 and 9.

Times:

June 2—10 a.m.–5:30 p.m. EDT
June 3—9 a.m.–3:30 p.m. EDT
June 6—1 p.m.–4 p.m. EDT
June 10—1 p.m.–4 p.m. EDT

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201.

Conference Call Number: June 6 and 10, dial 888–942–8131, password: EPIC.

Contact Person: Shellie Abramson, Office of the Assistant Secretary for Public Emergency Preparedness, 200 Independence Ave. Room 625G, Washington, DC 20201, 202–205–4729.

SUPPLEMENTARY INFORMATION:

Emergency Public Information and Communications Advisory Committee was established on March 26, 2003 by the Secretary of Health and Human Services under the authorization of Public Law 107–188 section 104(a) dated June 12, 2002, which amended section 319F of the Public Health Services Act. The purpose of the Emergency Public Information and Communications Advisory Committee will be to advise the Secretary on the appropriate ways to communicate public health information regarding bioterrorism and other public health emergencies to the nation. The function of the Committee is to advise the Secretary regarding steps the U.S. Department of Health and Human Services can take to improve communications with the public regarding threats posed by bioterrorism and other public health emergencies.

Public Participation

The meetings are open to the public with attendance limited by the availability of space on a first come, first served basis. Members of the public who wish to attend the meeting may register by emailing *EPIC@hhs.gov* no later than close of business, day, May 23, 2003.

Opportunities for oral statements by the public will be provided on June 2, 2003, from 5 p.m.–5:30 p.m. (Time approximate). Oral comments will be limited to 5 minutes, three minutes to make a statement and two minutes to respond to questions from Council members. Due to time constraints, only one representative from each organization will be allotted time for oral testimony. The number of speakers and the time allotment may also be limited by the number of registrants. Members of the public who wish to present oral comments at the meeting may register by emailing *EPIC@hhs.gov* no later than close of business, day, May 23, 2003. All requests to present oral comments should include the name, address, telephone number, and business or professional affiliation of the interested party, and should indicate the areas of interest or issue to be addressed.

Any person attending the meeting who has not registered to speak in advance of the meeting will be allowed to make a brief oral statement during the time set aside for public comment if time permits and at the Chairperson's discretion. Individuals unable to attend the meeting, or any interested parties, may send written comments by e-mail to *EPIC@hhs.gov* for inclusion in the public record no later than close of business, day, May 23, 2003.

When mailing written comments, please provide your comments, if possible, as an electronic version or on a diskette. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact staff at the address and telephone number listed above no later than close of business, day, May 23, 2003.

The public can gain access to the conference call meetings by dialing toll-free, 888–942–8131 and using the conference call password EPIC. At the end of the committee conference calls, the line will be opened 30 minutes to take questions or brief comments from the public.

Jerome M. Hauer,

Assistant Secretary for Public Health Emergency Preparedness (Acting).

[FR Doc. 03–11819 Filed 5–12–03; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03127]

Cooperative Agreement With the University of Malawi College of Medicine; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2003 funds for a cooperative agreement program with the University of Malawi, College of Medicine, located in Blantyre, Malawi. The Catalog of Federal Domestic Assistance number for this program is 93.283.

B. Eligible Applicant

Assistance will be provided only to the University of Malawi, College of Medicine. The University of Malawi, College of Medicine is the only institution that possesses the requisite scientific and technical expertise, the infrastructure capacity and experience in conducting the described operations research topics, and which has collaborative relationships within Malawi and internationally to ensure that all aspects of this agreement can be fulfilled.

C. Funding

Approximately $125,000 is available in FY 2003 to fund this award. It is expected that the award will begin on or before September 1, 2003, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, *Telephone:* (770) 488–2700.

For technical questions about this program, contact: Carl Campbell, Program Manager, Blantyre Integrated Malaria Initiative, Blantyre District Health Office, Blantyre, Malawi, *Telephone:* (265) 167–6071 or (265) 883–2614, *Email address: cdc@malawi.net.*

Dated: May 7, 2003.

Sandra R. Manning, CGFM,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–11870 Filed 5–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03128]

Development of Medical-Specialty Specific Antimicrobial Resistance Educational Materials—Internet-Based Educational Module; Notice of Availability of Funds

Application Deadline: June 27, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) and 317(k)(2) of the Public Health Service Act, (42 U.S.C. 241(a) and 247b(k)(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for the Development of Medical-Specialty Specific Antimicrobial Resistance Educational Materials—Internet-Based Educational Module. This program addresses the ''Healthy People 2010'' focus area Immunization and Infectious Diseases.

The purpose of the program is to develop and evaluate a comprehensive educational program for the medical specialty of Hospitalists that will employ multiple delivery methods, including an electronic educational module, sessions at national meetings, and publications in a specialty-related journal.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Infectious Diseases (NCID): Reduce the spread of antimicrobial resistance.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies, that is:

- Public nonprofit organizations.
- Private nonprofit organizations.
- Small, minority, women-owned businesses.
- Universities.
- Colleges.
- Research institutions.
- Hospitals.
- Community-based organizations.
- Faith-based organizations.
- Federally recognized Indian tribal governments.
- Indian tribes.
- Indian tribal organizations.
- State and local governments or their bona fide agents (this includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Marianna Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).
- Political subdivisions of States (in consultation with States).

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(C)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $70,000 is available in FY 2003 to fund one award. It is expected that the award will begin on or about September 15, 2003 and will be made for a 12-month budget period within a project period of one year. The funding estimate may change.

Recipient Financial Participation

Matching funds are not required for this program.

Funding Preferences

Due to the scope of the project, which seeks to apply effective interventions on a large scale, develop educational materials specifically for Hospitalists, and distribute materials to Hospitalists in an effective manner, funding preference will be given to national organizations that have the medical specialty of Hospitalists as their primary audience.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

a. Recruit and assemble an advisory board.

b. Conduct a needs assessment to determine information gaps among Hospitalists related to antimicrobial resistance.

c. Review existing educational materials and tools on antimicrobial resistance, and modify or create new tools for Hospitalists (with learning objectives) based on needs assessment results.

d. Develop a quality improvement ''toolbox'' of interventions shown to be successful.

e. Distribute educational materials and the quality improvement ''toolbox'' through a variety of avenues, including web-based, annual meetings, and journals.

f. Monitor and evaluate the impact of the educational materials and interventions from the ''toolbox''. Collect follow up data on the problems of implementing the educational program and ''toolbox'' interventions, the lessons learned, acceptability to Hospitalists, and antimicrobial resistance incidence at intervention institutions.

g. Assist with data analysis, and preparation of a report or manuscript related to the overall project.

2. CDC Activities

a. Provide the funding recipient with existing CDC antimicrobial resistance educational materials for inclusion in development of educational materials for Hospitalists.

b. Actively participate in the advisory board that oversees the creation and approval of content for the ''toolbox'' and educational materials.

c. Actively participate in the development of survey and other data collection tools for both the educational materials and the ''toolbox'' interventions.

d. Assist with data analysis and preparation of a report or manuscript related to the overall project.

e. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

F. Content

Applications

The Program Announcement title and number must appear in the application.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget. Additionally, include a one page, single spaced, typed abstract. The heading should include the title of the cooperative agreement, project title, organization, name and address, project director, and telephone number. This abstract should include a work plan identifying activities to be developed, activities to be completed, and a time line for completion of these activities.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time June 27, 2003. Submit the application to: Technical Information Management—PA#03128, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt:

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

The applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate the application against the following criteria:

1. *Operational Plan* (40 total points)

a. The extent to which the applicant presents clear, time-phased objectives that are consistent with the stated program goal and a detailed operational plan outlining specific activities that are likely to achieve the objective. The extent to which the plan clearly outlines the responsibilities of each of the key personnel. (35 points)

b. Does the applicant adequately address the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of proposed studies is adequate to measure differences when warranted; and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community/ies and recognition of mutual benefits. (5 points)

2. *Background and Need* (30 points)

The extent to which the applicant demonstrates a strong understanding of developing, distributing, and evaluating educational and interventional tools specifically for the medical specialty of Hospitalists. The extent to which the applicant illustrates the need for this cooperative agreement program. The extent to which the applicant presents a clear goal for this cooperative agreement that is consistent with the described need.

3. *Capacity* (15 points)

The extent to which the applicant demonstrates that it has the expertise, facilities, and other resources necessary to accomplish the program requirements, including curricula vitae of key personnel and letters of support from any participating organizations/institutions.

4. *Evaluation Plan* (10 points)

The extent to which the applicant presents a plan for monitoring progress toward the stated goals and objectives.

5. *Measures of Effectiveness* (5 points)

Does the applicant provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement? Are the measures objective/quantitative and do they adequately measure the intended outcome.

6. *Protection of Human Subjects* (Not scored)

The extent to which the application adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects. (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

7. *Budget* (Not scored)

The extent to which the applicant presents a detailed budget with a line-item justification and any other information to demonstrate that the request for assistance is consistent with the purpose and objectives of this cooperative agreement program.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activity Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, *see* Attachment I of the program announcement, as posted on the CDC Web site.

AR–1 Human Subjects Requirements.
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research.
AR–7 Executive Order 12372.
AR–9 Paperwork Reduction Act Requirements.
AR–10 Smoke Free Work Place Requirements.
AR–11 Healthy People 2010.
AR–12 Lobbying Restrictions.
AR–15 Proof of Non-Profit Status.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, *Telephone:* 770–488–2700.

For business management and budget assistance, contact: Deborah Workman, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, *Telephone:* 770–488–2085, *E-mail Address: atl7@cdc.gov.*

For program technical assistance, contact: Rachel Lawton, Division of Healthcare Quality Promotion, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 57 Executive Park Drive South, Room 4048, Atlanta, GA 30333, *Telephone:* 404–498–1261, Fax: 404–498–1244, *E-mail: Rlawton@cdc.gov.*

Dated: May 6, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–11868 Filed 5–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry

[Program Announcement 03012]

Public Health Conference Support Cooperative Agreement; Notice of Availability of Funds Amendment

A notice announcing the availability of Fiscal Year 2003 funds for a cooperative agreement program to support public health conferences was published in the **Federal Register** dated January 10, 2003, Volume 68, Number 7, pages 1463–1467. The notice is amended as follows: Page 1466, first column, section ''G. Submission and Deadline,'' remove the Application due date of May 1, 2003, and replace with an application due date of May 22, 2003.

Dated: May 7, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–11863 Filed 5–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee, Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety and Communication: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee and subcommittee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2:15 p.m., June 3, 2003; 8:30 a.m.–3 p.m., June 4, 2003.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 a.m. and 8:30 a.m. or 12:30 p.m. and 1 p.m. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters to be Discussed: Agenda items will include: a report from the National Vaccine Program Office (NVPO); an update on the Smallpox Vaccination Program; a report from the Acting Assistant Secretary for Health; an update on vaccine supply issues; a report from the polio vaccine stockpile workgroup; a report on the Institute of Medicine (IOM) Vaccine Safety Review Committee; a report from the IOM on their review of the Smallpox Vaccination Program; a report from the Influenza Immunization Summit; an update on pandemic influenza planning; a report from the Immunization Coverage Subcommittee, the Future Vaccines Subcommittee, and the Vaccine Safety and Communication Subcommittee; a discussion of compensation for vaccine administration; a discussion on Enhancing Public Participation in Immunization Decision-Making; a report from the Workgroup on Public Health Options for Implementing Immunization Recommendations; a report from the Polio Laboratory Containment Workgroup; a discussion of monitoring anthrax vaccine adverse events using the Department of Defense Medical Surveillance System; reports from the Advisory Commission on Childhood Vaccines/Division of Vaccine Injury Compensation, the Vaccine Related Biological Products Advisory Committee/Food and Drug Administration, and the Advisory Committee on Immunization Practices/National Immunization Program/National Center for Infectious Diseases.

Name: Subcommittee on Future Vaccines.

Time and Date: 2:30 p.m.–5 p.m., June 3, 2003.

Place: Hubert H. Humphrey Building, Room 405A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee develops policy options and guides national activities that lead to accelerated development, licensure, and the best use of new vaccines in the simplest possible immunization schedules.

Matters to be Discussed: Agenda items will include an update on the proposed pneumococcal meeting; an update on the newborn vaccination meeting; CMV status report; and a presentation on Group A Steptococcus vaccines.

Name: Subcommittee on Immunization Coverage.

Time and Date: 2:30 p.m.–5 p.m., June 3, 2003.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee identifies and proposes solutions that provide a multifaceted and holistic approach to

reducing barriers that result in low immunization coverage for children.

Matters to be Discussed: Agenda items will include an update on publication of the newly revised Adult and Pediatric Immunization Standards; a discussion of adolescent immunization; Immunization Registries—Updates on the use of VFC funds for registry development standards of excellence; PCV7 update on impact of shortage on coverage and active bacterial core surveillance; a discussion of the draft report from the Workgroup on Public Health Options for Implementing Immunization Recommendations; updates on pneumococcal and influenza coverage; and a review of data on the burden of pneumococcal disease.

Name: Subcommittee on Vaccine Safety and Communication.

Time and Date: 2:30 p.m.–5 p.m., June 3, 2003.

Place: Hubert H. Humphrey Building, Room 425A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee reviews issues relevant to vaccine safety and adverse reactions to vaccines.

Matters to be Discussed: Next Steps in Risk Communication: Reviews of IOM Immunization Safety Review Committee Recommendations, and of NVPO Workshop Recommendations; a discussion of the influenza communications programs; a discussion of next topics for the IOM Safety Review Committee; a review of the National Immunization Program Website; and, an update on thimerosal-related litigation.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria Sagar, Committee Management Specialist, NVPO, CDC, 4700 Buford Highway M/S K–77, Chamblee, Georgia 30341, telephone 770/488–2040.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 7, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–11877 Filed 5–12–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0449]

Agency Information Collection Activities; Announcement of OMB Approval; Revisions to the General Safety Requirements for Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Revisions to the General Safety Requirements for Biological Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 4, 2003 (68 FR 10157), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0504. The approval expires on April 30, 2006. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 6, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–11772 Filed 5–12–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0034]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; FDA Safety Alert/Public Health Advisory Readership Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the information collection by June 12, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be electronically mailed to sshapiro@omb.eop.gov or faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Stuart Shapiro, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Safety Alert/Public Health Advisory Readership Survey (OMB Control Number 0910–0341)—Extension

Section 705(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 375(b)) authorizes FDA to disseminate information concerning imminent danger to public health by any regulated product. The Center for Devices and Radiological Health (CDRH) communicates these risks to user communities through two publications: (1) The FDA Safety Alert and (2) the Public Health Advisory. Safety alerts and advisories are sent to organizations such as hospitals, nursing homes, hospices, home health care agencies, manufacturers, retail pharmacies, and other health care providers. Subjects of previous alerts included spontaneous combustion risks in large quantities of patient examination gloves, hazards associated with the use of electric heating pads, and retinal photic injuries from operating microscopes during cataract surgery.

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. FDA seeks to evaluate the clarity, timeliness, and impact of safety alerts

and public health advisories by surveying a sample of recipients. Subjects will receive a questionnaire to be completed and returned to FDA. The information to be collected will address how clearly actions for reducing risk are explained, the timeliness of the information, and whether the reader has taken any action to eliminate or reduce risk as a result of information in the alert. Subjects will also be asked whether they wish to receive future alerts electronically, as well as how the safety alert program might be improved.

The information collected will be used to shape FDA's editorial policy for the safety alerts and public health advisories. Understanding how target audiences view these publications will aid in deciding what changes should be considered in their content, format, and method of dissemination.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Records	Hours per Response	Total Hours
308	3	924	.17	157

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on the history of the safety alert and public health advisory program, it is estimated that an average of three collections will be conducted a year. The total burden of response time is estimated at 10 minutes per survey. This was derived by CDRH staff completing the survey and through discussions with the contacts in trade organizations.

Dated: May 6, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–11773 Filed 5–12–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0224]

Guidance for Industry: Mass Spectrometry for Confirmation of the Identity of Animal Drug Residues; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance (#118) entitled ''Guidance For Industry: Mass Spectrometry for Confirmation of the Identity of Animal Drug Residues.'' This guidance describes the basic principles the agency recommends for development, evaluation, or application of qualitative mass spectrometric methods for confirming the identity of new animal drug residues. This guidance document is intended for technical professionals familiar with mass spectrometry. A glossary at the end of the guidance defines key terms used throughout the document.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance document to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Once on this site, select ''Docket No. 01D–0224 Guidance for Industry: Mass Spectrometry for Confirmation of the Identity of Animal Drug Residues'' and follow the directions. Comments should be identified with the full title of the guidance document and the docket number found in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: David N. Heller, Center for Veterinary Medicine (HFV–510), Food and Drug Administration, 8401 Muirkirk Rd., Laurel, MD 20708, 301–827–8156, e-mail: dheller@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 13, 2001 (66 FR 31938), FDA published a notice of availability for a draft guidance entitled ''Draft Guidance for Industry: Mass Spectrometry for Confirmation of the Identity of Animal Drug Residues'' giving interested persons until September 11, 2001, to submit comments. FDA considered all comments received and, where appropriate, incorporated them into the guidance. The guidance differs from the draft guidance in the following ways:

- There is further clarification of interference testing, control samples, system suitability, minimum signal strength in full scan analysis, recommended rate of false negatives, and number of residue-incurred samples for validation. (The recommendation in the 1994 revision of CVM Guidance #3 for a smaller number of incurred samples for interlaboratory method trials has not been CVM's practice for some years. CVM is currently revising Guidance #3.)
- Additional definitions were provided for comparison standard, control sample exact mass measurement, false positive rate, false negative rate, limit of confirmation, and validation. Other revisions in the glossary definitions were made to make the definitions consistent with definitions in existing regulations.
- Use of the terms ''acceptability range'' and ''precursor ion'' is now consistent.
- General recommendations on the subject of exact mass measurements have been added. Until specific standards for exact mass measurements in animal drug residue analysis are generally accepted, their use will be evaluated on a case-by-case basis. The Center for Veterinary Medicine (CVM) of FDA may modify this document if a more generally accepted standard for confirmation of animal drug residues using exact mass measurements is developed in the future.

The purpose of this guidance document is to facilitate and expedite coordination between CVM and sponsors so the development, evaluation, and application of qualitative mass spectrometric methods will be completed in a consistent and timely manner. This guidance document is intended for technical professionals familiar with mass spectrometry. A glossary at the end of the guidance defines key terms used throughout the document.

This guidance should be used: (1) In the development of new methods, (2) the review of methods submitted to

CVM, and (3) in the laboratory trial of methods submitted to CVM. The document should also help in making decisions about appropriate methodology in various regulatory situations and ensuring consistency in work done for CVM's purposes.

Information collection provisions described in this guidance have been approved under OMB control numbers 0910–0032 and 0910–0325.

II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's animal drug residues. The document does not create or confer any rights for or on any person and does not operate to bind FDA or the public. Alternative methods may be used as long as they satisfy the requirements of the applicable statutes and regulations.

III. Comments

As with all of FDA's guidance, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA periodically will review the comments in the docket and, where appropriate, will amend the guidance. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cvm.

Dated: May 5, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–11771 Filed 5–12–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Submission for OMB Emergency Review; Comment Request

AGENCY: Office of the Under Secretary for Management, Homeland Security.

DATES: May 7, 2003.

SUMMARY: The Department of Homeland Security (DHS) has submitted the following (*see* below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106). OMB approval has been requested by May 13, 2003. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Homeland Security, Theresa M. O'Mally ((202) 722–9686).

Comments: Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316). The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Under Secretary of Management, Office of the Chief Information Officer.

Title: Vendor Information Site.

OMB Number: 1600—new collection.

Frequency: On occasion.

Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions; farms; State, local or tribal government.

Number of Respondents: 20,000.

Estimated Time Per Respondent: 30 minutes for startup; 30 minutes for maintaining.

Total Burden Hours: 20,000.

Total Burden Cost (capital/startup): $25.00 per respondent; $500,000 annually.

total Burden Cost (operating/maintaining): $25.00 per respondent, $500,000 annually.

Description: This web-based Vendor Information Site information collection will provide a uniform voluntary way companies can provide descriptions of their product-and-service ideas to DHS for enhancing homeland security.

Steve I. Cooper,

Chief Information Officer.

[FR Doc. 03–11855 Filed 5–8–03; 12:16 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1459–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1459–DR), dated April 24, 2003, and related determinations.

EFFECTIVE DATE: April 24, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 24, 2003, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms, tornadoes, and flooding on April 6–14, 2003, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the

Stafford Act). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Other Needs Assistance under section 408 of the Stafford Act will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Undersecretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Carlos Mitchell, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

Amite, Attala, Claiborne, Clarke, Copiah, Franklin, Hinds, Holmes, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Lawrence, Leake, Lincoln, Madison, Neshoba, Newton, Pike, Rankin, Scott, Simpson, Smith, Walthall, Warren, Wayne, and Yazoo Counties for Individual Assistance.

Clarke, Hinds, Lauderdale, Lincoln, Madison, Newton, Scott, Warren, and Yazoo Counties for Public Assistance.

All counties within the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program)

Michael D. Brown,

Undersecretary Emergency Preparedness and Response.

[FR Doc. 03–11832 Filed 5–12–03; 8:45 am]

BILLING CODE 6718–02–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1453–DR]

Ohio; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Ohio, (FEMA–1453–DR), dated March 14, 2003, and related determinations.

EFFECTIVE DATE: April 29, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Ohio is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 14, 2003:

Miami County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560, Individual and Household Program-Other Needs; 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program)

Michael D. Brown,

Undersecretary, Emergency Preparedness and Response.

[FR Doc. 03–11834 Filed 5–12–03; 8:45 am]

BILLING CODE 6718–02–U

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1458–DR]

Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia (FEMA–1458–DR), dated March 27, 2003, and related determinations.

EFFECTIVE DATE: April 28, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Undersecretary for Emergency Preparedness and Response, Department of Homeland Security, under Executive Order 12148, as amended, Thomas Costello, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Justo Hernandez as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program)

Michael D. Brown,

Undersecretary, Emergency Preparedness and Response.

[FR Doc. 03–11833 Filed 5–12–03; 8:45 am]

BILLING CODE 6718–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4665–N–08]

Fourth Meeting of the Manufactured Housing Consensus Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Manufactured Housing Consensus Committee (the Committee). The meeting is open to the public and the site is accessible to individuals with disabilities.

DATES: The meetings will be held on Wednesday, May 28, 2003, from 8 a.m. to 5 p.m., Thursday, May 29, 2003, from 8 a.m. to 5 p.m., and Friday, May 30, 2003, 8 a.m. to 2 p.m.

ADDRESSES: These meetings will be held at the Radisson Hotel ''Old Town'', 901 North Fairfax Street, Alexandria, Virginia, telephone (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Office of Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.2) and 41 CFR 102–3.150. The Manufactured Housing Consensus Committee was established under section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 4503(a)(3). The Consensus Committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured housing construction and safety standards and procedural and enforcement regulations, and with developing proposed model installation standards. The purpose of this meeting is to begin the development of proposed model manufactured home installation standards.

Tentative Agenda

A. Welcome and Opening Remarks
B. Presentation on In-plant Construction
C. Presentation on Installation
D. Installation Standards
E. Reports to Full Committee
—Dispute Resolution
—Standards up-date
—On-site Completion
—Installation Standards and Program Status
F. Public Testimony
G. Full Committee meeting
H. Adjournment

Dated: May 6, 2003.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

[FR Doc. 03–11904 Filed 5–12–03; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the *Exxon Valdez* Oil Spill Public Advisory Committee.

DATES: June 7, 2003, at 4 p.m.

ADDRESSES: Public Library, 201 Adams Street, Cordova, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Committee was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The meeting agenda will feature discussions about the status of the Gulf of Alaska Ecosystem Monitoring and Research program.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 03–11812 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Applications for Permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by June 12, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: New York State Museum, Albany, NY, PRT–059244.

The applicant requests a permit to import biological samples from ocelot (*Leopardus pardalis*), margay (*Leopardus wiedii*), jaguar (*Panthera onca*), and Costa Rican puma (*Puma concolor costaricensis*) collected in the wild in central Panama, for scientific research. This notification covers activities to be conducted by the applicant over a five year period.

Applicant: Albuquerque Biological Park, Albuquerque, NM, PRT–067101.

The applicant requests a permit to import two male captive-born Asian elephants (*Elephas maximus*) from African Lion Safari, Ontario, Canada for the purpose of enhancement of the

species through captive propagation and conservation education.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application(s) was/were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Paul L. Van Dam, Hamilton, MI, PRT–070875.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Stanley D. Jager, Byron Center, MI, PRT–070876.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Wayne F. Manis, Hayden Lake, ID, PRT–070952.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

Applicant: John J. Michelotti, Billings, MT, PRT–070954.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: April 25, 2003.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–11831 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Scientific Earthquake Studies Advisory Committee

AGENCY: Geological Survey.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 106–503, The Scientific Earthquake Studies Advisory Committee (SESAC) will hold its fourth meeting. The meeting location is the University of Southern California, 167 North Science Hall, Southern California Earthquake Center Board Room, Los Angeles, California 90089. The Committee is comprised of members from academia, industry, and State government. The Committee shall advise the Director of the U.S. Geological Survey (USGS) on matters relating to the USGS's participation in the National Earthquake Hazards Reduction Program.

The Committee will review the U.S. Geological Survey's National Earthquake Hazards Reduction Program earthquake hazard assessment activities in California. This will include a critique of the goals and objectives of the Program in California over the next 5 years in earthquake hazards assessments and in research on earthquake processes and effects.

Meetings of the Scientific Earthquake Studies Advisory Committee are open to the public.

DATES: June 11, 2003, commencing at 9 a.m. and adjourning at 4:30 p.m. on June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. John R. Filson, U.S. Geological Survey, 12202 Sunrise Valley Drive, Reston, Virginia 20192, (703) 648–6785.

Dated: April 29, 2003.

R.K. Kotra,

Acting Associate Director for Geology.

[FR Doc. 03–11923 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–03–1020–PG]

Notice of Public Meeting, Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Western Montana Resource Advisory Council will meet as indicated below.

DATES: A meeting will be held July 9, 2003 at the BLM Butte Field Office, 106 North Parkmont, Butte, Montana beginning at 9 a.m. The public comment period will begin at 11:30 a.m. and the meeting will adjourn at noon to allow for an afternoon field trip.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in western Montana. At the July 9 meeting, topics we plan to discuss include: an update on the Dillon Resource Management Plan, special recreation uses on the Blackfoot River, and proposed grazing regulation changes.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

FOR FURTHER INFORMATION CONTACT: Marilyn Krause, Resource Advisory Council Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7617 or Richard Hotaling, Field Manager, Butte Field Office, telephone 406–533–7600.

Dated: May 5, 2003.

Richard Hotaling,

Field Manager.

[FR Doc. 03–11862 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0140).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) is titled ''30 CFR part 210—Forms and Reports and Part 206—Product Valuation (Form MMS–2014, Report of Sales and Royalty Remittance).''

DATES: Submit written comments on or before July 14, 2003.

ADDRESSES: Submit written comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation we have received your email, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781 or email *sharron.gebhardt@mms.gov*.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR part 206—Product Valuation (Form MMS–2014, Report of Sales and Royalty Remittance).

OMB Control Number: 1010–0140.

Bureau Form Number: Form MMS–2014.

Abstract: The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

The Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, 30 U.S.C. 1701 *et seq.*, states in section 101(a) that the Secretary ''* * * shall establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and collect and account for such amounts in a timely manner.'' The persons or entities described at 30 U.S.C. 1713 are required to make reports and provide reasonable information as defined by the Secretary.

Form MMS–2014, Report of Sales and Royalty Remittance, is the only document used for reporting oil and gas royalties, certain rents, and other lease-related transactions to MMS (*e.g.*, transportation and processing allowances, lease adjustments, and quality and location differentials). These transactions represent only a few of the transactions identified for this form.

MMS is requesting OMB's approval to continue to collect information using Form MMS–2014. No proprietary information will be submitted to MMS under this collection. No items of a sensitive nature are collected. The requirement to respond is mandatory.

Frequency of Response: Monthly.

Estimated Number and Description of Respondents: 1,600 payors

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 125,856 hours.

The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph:

RESPONDENT ANNUAL BURDEN HOUR CHART

30 CFR Section Parts 210 and 206	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
210.20(a); 210.21(c)(1); 210.50; and 210.52(a)(1), (2), (b), (c), and (d); 210.354	You must submit Form MMS–2014 * * * to MMS electronically. * * * You must submit an electronic sample of your report for MMS approval * * * Records may be maintained in microfilm, microfiche, or other recorded media * * * You must submit a completed Form MMS–2014 (Report of Sales and Royalty Remitttance) to MMS with (1) All royalty payments; and (2) Rents on nonproducing leases, . . . When you submit Form MMS–2014 data electronically, you must not submit the form itself; Completed Forms MMS–2014 for royalty payments are due by the end of the month following the production month; . . . completed Forms MMS–2014 for rental payments are due no later than the anniversary date of the lease. . . . . A completed Report of Sales and Royalty Remittance (Form MMS–2014) must be submitted each month once sales or utilization of production occur, . . . This report is due on or before the last day of the month following the month in which production was sold or utilized, . . .	.1167 (Manual 1%) ..... .05 (Electronic 99%)	24,840 2,459,160	2,898 122,958
206.55(c)(4)	Transportation allowances must be reported as a separate line item on Form MMS–2014.	Burden hours included in hours above.		
206.55(e)(2)	For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, . . .	Burden hours included in hours above.		
206.110(c)(1) and 206.111(l)(2).	You may use your proposed procedure to calculate a transportation allowance until MMS accepts or rejects your cost allocation. If MMS rejects your cost allocation, you must amend your Form MMS–2014 for the months that you used the rejected method . . .	Burden hours included in hours above.		
206.114 and 206.115(a)	You or your affiliate must use a separate entry on Form MMS–2014 to notify MMS of an allowance based on transportation costs you or your affiliate incur.	Burden hours included in hours above.		
206.157(a)(1)(i); 206.157(b)(1).	Arm's-length transportation contracts and non-arm's length or no contract. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014.	Burden hours included in hours above.		
206.157(c)(1)(i) and (c)(2)(i); 206.159(c)(1)(i) and (c)(2)(i).	Arm's-length contracts and non-arm's length or no contract. The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.	Burden hours included in hours above.		
206.157(e)(2)	For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, . . .	Burden hours included in hours above.		

RESPONDENT ANNUAL BURDEN HOUR CHART—Continued

30 CFR Section Parts 210 and 206	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
206.157(e)(3)	For lessees transporting gas production from leases on the OCS, . . . the lessee must submit a corrected Form MMS–2014 to reflect actual costs.	Burden hours included in hours above.		
206.157(f)(1); 206.178(f)(1) ...	You must modify the Form MMS–2014 by the amount received or credited for the affected reporting period.	Burden hours included in hours above.		
206.159(a)(1)(i) and (b)(1)	Arm's-length processing contracts and non-arm's-length or no contract. The lessee must claim a processing allowance by reporting it as a separate line entry on the Form MMS–2014.	Burden hours included in hours above.		
206.159(e)(3)	For lessees processing pas production from leases on the OCS, . . . the lessee must submit a corrected Form MMS–2014 to reflect actual costs, . . .	Burden hours included in hours above.		
206.172(e)(6)(ii)	You must pay and report on Form MMS–2014 additional royalties due . . .	Burden hours included in hours above.		
206.174(a)(4)(ii)	If the major portion value is higher, you must submit an amended Form MMS–2014 to MMS . . .	Burden hours included in hours above.		
206.178(d)(2)	You must report transportation allowances as a separate line item on Form MMS–2014.	Burden hours included in hours above.		
206.180(c)(2)	You must report gas processing allowances as a separate line item on Form MMS–2014.	Burden hours included in hours above.		
206.353(d)(2); 206.354(d)(2)	Lessees must submit corrected Forms MMS–2014 to reflect adjustments to royalty payments . . .	Burden hours included in hours above.		
Total	.....	.....	2,484,000	125,856

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'': We have identified no ''non-hour'' cost burdens.

Comments: The PRA (44 U.S.C. 3501, *et seq.*) provides an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens for this information collection. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request and the ICR will also be posted on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm*.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm*. We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request we withhold their home address from the public

record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: May 6, 2003.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 03–11815 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

National Park Service

Great Sand Dunes National Park Advisory Council Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of meetings.

SUMMARY: Great Sand Dunes National Monument and Preserve announces dates for meetings of the Great Sand Dunes National Park Advisory Council, which was established to provide guidance to the Secretary on long-term planning for Great Sand Dunes National Monument and Preserve.

DATES: The meeting dates are:

1. May 29, 2003, 1 p.m.–8 p.m., Alamosa, Colorado.
2. June 26, 2003, 1 p.m.–8 p.m., Crestone, Colorado.

ADDRESSES: The meeting locations are:

1. Alamosa, Colorado—Alamosa County Services Center, 8900 Independence Way, Alamosa, CO 81101
2. Crestone, Colorado—Crestone Community Building, 242 No. Cottonwood St., Crestone, CO 81131.

FOR FURTHER INFORMATION CONTACT: Steve Chaney, 719–378–2314.

SUPPLEMENTARY INFORMATION: The meetings announced with this notice are the first meetings of the Great Sand Dunes National Park Advisory Council which was established pursuant to Public Law 106–530, the Great Sand Dunes National Park and Preserve Act of 2000. At these meetings, the council will receive an orientation/information session on Great Sand Dunes National Monument operations, an update regarding redesignation of the Monument to a national park, and information regarding the general management planning process, and will discuss these matters and other business.

John Crowley,

Acting Regional Director.

[FR Doc. 03–11858 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–CL–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 19, 2003. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, (202) 343–1836. Written or faxed comments should be submitted by May 28, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARIZONA

Yavapai County

Hassayampa Historic District, 1089–1112 Old Hassayampa Ln., 1106 Country Club Dr., Prescott, 03000469

ARKANSAS

Carroll County

Quigley's Castle, 274 Quigley's Castle Rd., Eureka Springs, 03000467

Hempstead County

Oak Grove Missionary Baptist Church, Cty Rd. 16, Blevins, 03000463

Hot Spring County

Hot Springs Railroad Roundhouse, 132 Front St., Malvern, 03000462

Lincoln County

Rice Family Cemetery, Jct. of U.S. 65 and AR 388, Varner, 03000464

Marion County

Berry's, J.C., Dry Goods Store, 331 Old South Main St., Yellville, 03000468

Monroe County

Memphis to Little Rock Road—Henard Cemetery Road Segment, (Cherokee Trail of Tears MPS), Henard Cemetery Rd., Zent, 03000470

Sebastian County

Maness Schoolhouse, 8801 Wells Lake Rd., Barling, 03000466

Washington County

Fitzgerald Station and Farmstead, 2327 Old Wire Rd. and 1567 Dodd Ave., Springdale, 03000465

CALIFORNIA

Contra Costa County

Atchison Village Defense Housing Project, Cal. 4171-X, Roughly bounded by MacDonald Ave., Ohio St., First St., and Garrard Blvd., Richmond, 03000473

San Bernardino County

Maloof, Sam and Alfreda, Compound, 5131 Carnelian St., Alta Loma, 03000471

San Diego County

Rosecroft, 530 Silvergate Ave., San Diego, 03000472

GEORGIA

Monroe County

State Teachers and Agricultural College for Negroes Women's Dormitory and Teachers' Cottage, Martin Luther King Dr., Forsyth, 03000475.

IOWA

Linn County

Grant Wood's ''Fall Plowing'' Rural Historic Landscape District, 0.5 mi. N of jct. of Matsell Ln. and Stone City Rd., Viola, 03000476

KANSAS

Marshall County

Robidoux Creek Pratt Truss Bridge, (Metal Truss Bridges in Kansas 1861—1939 MPS) Sunflower Rd., 0.8 mi. W of jct. with 21st Rd., NW., of Frankfort, Frankfort, 03000474

MISSOURI

St. Louis Independent City, Building at 3910–12 Laclede Ave., 3910–12 Laclede Ave., St. Louis (Independent City), 03000478

Gerhart Block, 3900–08 Laclede Ave., 1–17 Vandeventer, St. Louis (Independent City), 03000477

NEW JERSEY

Bergen County

Maywood Railroad Station, 271 Maywood Ave., Maywood, 03000487

NEW MEXICO

McKinley County

Southwestern Range and Sheep Breeding Laboratory Historic District, Fort Wingate

Work Center, Cibola National Forest, Fort Wingate, 03000488

NEW YORK

Niagara County

Conkey House, (Stone Buildings of Lockport, New York MPS), 202 Akron St., Lockport, 03000479
Dole House, (Stone Buildings of Lockport, New York MPS), 74 Niagara St., Lockport, 03000485
Gibbs House, (Stone Buildings of Lockport, New York MPS), 98 N. Transit St., Lockport, 03000482
Hopkins House, (Stone Buildings of Lockport, New York MPS), 83 Monroe St., Lockport, 03000480
Maloney House, (Stone Buildings of Lockport, New York MPS), 279 Caledonia St., Lockport, 03000481
Stickney House, (Stone Buildings of Lockport, New York MPS), 133 Lock St., Lockport, 03000483
Watson House, (Stone Buildings of Lockport, New York MPS), 129 Outwater Dr., Lockport, 03000486
White—Pound House, (Stone Buildings of Lockport, New York MPS), 140 Pine St., Lockport, 03000484

PENNSYLVANIA

Bedford County

Everett Historic District, (Lincoln Highway Heritage Corridor Historic Resources: Franklin to Westmoreland Counties MPS), Roughly bounded by W. Fifth, Borough, Hill Sts., River Ln., South St. Barndollar Ave., Everett, 03000492

Butler County

Butler Historic District, (Oil Industry Resources in Western Pennsylvania MPS), Roughly bounded by N. Church St., Walnut St., Franklin St. and Wayne St., Butler, 03000490

Jefferson County

Brockwayville Passenger Depot, Buffalo, Rochester and Pittsburgh Railroad, Alexander Street at Fourth Ave., Brockway, 03000489

Mercer County

First Universalist Church of Sharpsville, 131 N. Mercer Ave., Sharpsville, 03000491

Perry County

Lupfer, Israel and Samuel, Tannery Site and House, Black Hollow Rd., SW of Toboyne/Jackson Townships, Toboyne, 03000493

RHODE ISLAND

Providence County

Summit Historic District, Summit Ave., Rochambeau Ave., Camp St., Memorial Rd., Creston Way, Providence, 03000495
Westminster Street Historic District, Roughly along Westminster St. bet. Stewart St. and Sawins Ln., Providence, 03000494

SOUTH DAKOTA

Buffalo County

Talking Crow Archeological Site, Address Restricted, Fort Thompson, 03000505

Gregory County

Herrick Elevator, US 18, Herrick, 03000498

Lawrence County

Walsh Barn, 0.5 mi. W of jct. of Upper Redwater Rd. and 104th Ave., Spearfish, 03000500

Lincoln County

Norway Center Store, 29339 SD 11, Hudson, 03000496

Lyman County

Dinehart Village Archeological Site, Address Restricted, Oacoma, 03000501
King Archeological Site, Address Restricted, Oacoma, 03000502

Minnehaha County

Cherry Rock Park Bridge, (Historic Bridges in South Dakota MPS AD), Cherry Rock Park, Sioux Falls, 03000499
Willow Grove Farm, (Federal Relief Construction in South Dakota MPS), 47480 258th Ave., Renner, 03000497

Stanley County

Breeden Village, Address Restricted, Fort Pierre, 03000503

Sully County

Cooper Village Archeological Site, Address Restricted, Onida, 03000504

WISCONSIN

Waupaca County

Mead Bank, 215 Jefferson St., Waupaca, 03000506

[FR Doc. 03–11860 Filed 5–12–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notice of Draft Multiple Property Documentation Form: Historic Residential Suburbs in the United States, 1830–1960

The National Register is soliciting comments on a draft multiple property form, Historic Residential Suburbs in the United States, 1830–1960, which was developed in conjunction with the National Register bulletin, Historic Residential Suburbs: Guidelines for Evaluation and Documentation for the National Register of Historic Places (available on the Web at: *http://www.cr.nps.gov/nr/publications/bulletins/suburbs*). Researched and written by Dr. David L. Ames of the Center for Historic Architecture and Engineering at the University of Delaware and Linda McClelland of the National Register staff, this proposed Multiple Property Submission is intended to facilitate future nominations of historic subdivisions and neighborhoods to the National Register.

Historic Residential Suburbs in the United States, 1830–1960 is available on the National Register Web site at: *<www.nr.nps.gov/multiples/64500838.pdf>*.

Comments on the proposed Historic Residential Suburbs in the United States, 1830–1960 multiple property form will be received for 45 days from the date of this notice. Please address comments to Carol D. Shull, Keeper of the National Register of Historic Places, National Register, History and Education, National Park Service, 1849 C Street, NW. (2280), Washington, DC 20240, Attention: Linda McClelland (phone: 202–354–2258; e-mail: *linda_mcclelland@nps.gov*).

Carol D. Shull,

Keeper of the National Register of Historic Places.

[FR Doc. 03–11859 Filed 5–12–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet on June 5, 2003. The agenda for the Committee meeting will include discussion on the Bay-Delta Program Plans and related recommendations, summary of water operations issues and integrated key milestones, Colorado River negotiations and related legal and water transfers issues, Committee priorities for 2003, and implementation of the CALFED Bay-Delta Program with State and Federal officials.

DATES: The meeting will be held Thursday, June 5, 2003, from 9 a.m. to 6 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 445–7297 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the John E. Moss Federal Building located at 650 Capitol Mall, 5th Floor, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Eugenia Laychak, California Bay-Delta Authority, at (916) 445–0524, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978–5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide assistance and recommendations to Secretary of the Interior Gale Norton and California Governor Gray Davis on implementation of the CALFED Bay-Delta Program. The Committee will advise on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The Program is a consortium of 23 State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting materials will be available on the CALFED Bay-Delta Web site: *http://calwater.ca.gov* and at the meeting. This meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3–5 minutes.

(Authority: The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.,* the Endangered Species Act, 16 U.S.C. 1531 *et seq.,* and the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.,* and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, Title 34 of Pub. L. 102–575.)

Dated: April 24, 2003.

Nan M. Yoder,

Acting Special Projects Officer, Mid-Pacific Region.

[FR Doc. 03–11875 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP provides an organization and process to ensure the use of scientific information in decision making concerning Glen Canyon Dam operations and protection of the affected resources consistent with the Grand Canyon Protection Act. The AMP has been organized and includes a federal advisory committee (AMWG), a technical work group (TWG), a monitoring and research center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and information for the AMWG to act upon.

Date and Location: The AMWG will conduct the following public meeting:

Phoenix, Arizona—May 29, 2003. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. The meeting will be held at the Bureau of Indian Affairs—Western Regional Office, 2 Arizona Center, 400 N. 5th Street, Conference Rooms A and B (12th Floor), Phoenix, Arizona.

Agenda: The purpose of the meeting will be to address the critical status of the humpback chub in the Colorado River. At the AMWG Meeting held on January 28–29, 2003, the following motion was passed: ''AMWG meet in special session on or about April 1, 2003, to consider actions to implement a comprehensive research and management program for the HBC, and in the interim an ad hoc committee of AMWG, TWG, GCMRC, and science advisors develop recommendations and report to AMWG at the special session.'' In conjunction with that motion, the HBC Ad Hoc Group was formed and will present their report to the AMWG at the meeting. Additional ad hoc group reports may also be presented as appropriate.

Time will be allowed for any individual or organization wishing to make formal oral comments (limited to 5 minutes) at the meeting.

Date and Location: The TWG will conduct the following public meeting:

Phoenix, Arizona—May 28, 2003. The meeting will begin at 1 p.m. and conclude at 5 p.m. It will resume again on Friday, May 30, 2003 at 8 a.m. and conclude at noon. The meeting will be held at the Bureau of Indian Affairs—Western Regional Office, 2 Arizona Center, 400 N. 5th Street, Conference Rooms A and B (12th Floor), Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the Humpback Chub Ad Hoc Group Report, FY04 and FY05 Work Plans, GCMRC Survey Protocol Evaluation Panel Report, Oracle database, Tribal Consultation Plan, basin hydrology, environmental compliance, and other administrative and resource issues pertaining to the AMP.

To allow full consideration of information by the AMWG or TWG members, written notice must be provided to Dennis Kubly, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah, 84138; telephone (801) 524–3715; faxogram (801) 524–3858; e-mail at *dkubly@uc.usbr.gov* (5) days prior to the meeting. Any written comments received will be provided to the AMWG and TWG members prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Dennis Kubly, telephone (801) 524–3758; faxogram (801) 524–3858; or via e-mail at *dkubly@uc.usbr.gov.*

Dated: April 28, 2003.

Dennis Kubly,

Chief, Adaptive Management Group, Environmental Resources Division, Upper Colorado Regional Office.

[FR Doc. 03–11861 Filed 5–12–03; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1034–1035 (Preliminary)]

Certain Color Television Receivers From China and Malaysia

AGENCY: International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty investigations 731–TA–1034–1035 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Malaysia of certain color television receivers,[1] provided for in subheadings 8528.12.28, 8528.12.32, 8528.12.36, 8528.12.40, 8528.12.44, 8528.12.48,

[1] The imported products subject to these investigations, as defined in the petition, are complete and incomplete direct view or projection type cathode-ray tube color television receivers, with video display diagonal exceeding 52 centimeters (in effect, 21 inches and above), whether or not combined with video recording or reproducing apparatus (VCR and DVD ''combos''). The products subject to these investigations are those which are capable of receiving a broadcast television signal and producing a video image.

8548.12.52, and 8528.12.56 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping investigations in 45 days, or in this case by June 16, 2003. The Commission's views are due at Commerce within five business days thereafter, or by June 23, 2003.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: May 2, 2003.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on May 2, 2003, on behalf of Five Rivers Electronic Innovations, LLC, Greenville, TN; the International Brotherhood of Electrical Workers, Washington, DC; and the IUE–CWA, the Industrial Division of the Communications Workers of America, Washington, DC.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 23, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202–205–3188) not later than May 20, 2003, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 29, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: May 7, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–11828 Filed 5–12–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–484]

In the Matter of Certain Machine Vision Systems, Parts and Components Thereof and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting a joint motion to terminate the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information

concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain machine vision systems, parts and components thereof and products containing same on January 13, 2003, based on a complaint filed by Cognex Corporation of Natick Massachusetts. 68 FR 1640. The respondents named in the notice of investigation are Nikon Corporation of Japan, Nikon Precision, Inc. of Belmont, CA, and Aval Data Corporation of Japan. Cognex's complaint alleged that respondents' products infringed claims of four patents held by Cognex.

On March 17, 2003, Cognex and respondents entered into a settlement agreement and on April 3, 2002, Cognex and respondents filed a joint motion to terminate the investigation on the basis of the settlement agreement. The Commission investigative attorney supported the joint motion.

On April 17, 2003, the presiding ALJ issued the subject ID (Order No. 5) granting the joint motion of Cognex and respondents to terminate the investigation on the basis of the settlement agreement. No party filed a petition to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: May 7, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–11827 Filed 5–12–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Child Labor Through Education in Brazil; Combating Child Trafficking and Commercial Sexual Exploitation Through Education in Cambodia; Combating Child Trafficking Through Education in Benin, Burkina Faso and Mali

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for cooperative agreement applications (SGA 03–05).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for cooperative agreement funding. The U.S. Department of Labor, Bureau of International Labor Affairs will award up to U.S. $16 million through one or more cooperative agreements to an organization or organizations to improve access to quality education programs as a means to combat child labor in Brazil ($5 million), Cambodia ($3 million), and the West African countries of Benin ($2 million), Burkina Faso ($3 million) and Mali ($3 million). The activities funded will complement and expand upon existing projects and programs to improve basic education in these countries, and provide access to basic education to children in areas of high incidence of exploitative child labor. In Brazil the activities will strengthen the quality of existing child labor and education programs. The special focus in Cambodia will be to provide education to victims of, and children at risk of entering, child trafficking and commercial sexual exploitation, and in West Africa to victims of, and children at risk of entering, child trafficking.

Applicants must submit a separate application for each country. If applications for countries are combined, they will not be considered.

DATES: The closing date for receipt of application is June 20, 2003. As discussed in section II.B and C, applications must be received by 4:45 p.m. (eastern time) at the address below. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be honored. Telegram, facsimile (FAX), and e-mail applications will not be honored.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice, and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–05, Washington, DC 20210. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; however, the applicant bears the responsibility for timely submission.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey. E-mail address: *harvey.lisa@dol.gov.* All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service. *See* section II.C for additional information.

SUPPLEMENTARY INFORMATION: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations for the purpose of promoting school attendance in areas of high and exploitative child labor in Brazil, Cambodia, and the West African countries of Benin, Burkina Faso, and Mali. The grant or grants awarded under this initiative will be managed by ILAB's International Child Labor Program to assure achievement of the stated goals. Applicants are encouraged to be creative in proposing cost-effective interventions that will have a demonstrable impact in promoting school attendance in areas of those countries where children are engaged in or are most at risk of working in the worst forms of child labor, and for child victims of trafficking.

I. Authority

ILAB is authorized to award and administer this program by Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2002, Pub.L. No. 107–116, 115 Stat. 2177 (2002).

II. Application Process

A. Eligible Applicants

Any commercial, international, educational, or non-profit organization capable of successfully developing and

implementing education programs for child laborers or children at risk in the countries of interest is eligible to apply. Partnerships of more than one organization are also eligible, and applicants are strongly encouraged to work with organizations already undertaking projects in the countries of interest, particularly local NGOs and faith based-organizations. (All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083), which is available online at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm.*) In the case of partnerships, a lead organization to sign the agreement must be identified. The capability of an applicant or applicants to perform necessary aspects of this solicitation will be determined under Section V.B Rating Criteria and Selection.

Please note that eligible grant applicants must not be classified under the Internal Revenue Code as a 501(c)(4) entity. *See* 26 U.S.C. 501(c)(4). According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies (in English) of the application, must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, not later than 4:45 p.m. eastern time, June 20, 2003. Applicants may submit applications for one or more countries. In the case where an applicant is interested in applying for a grant in more than one country, a separate application must be submitted for each country.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A, available from ILAB's Web site at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm.* Copies of these forms are also available online from the GSA Web site at *http://contacts.gsa.gov/webforms.nsf/0/B835648D66D1B8F985256A72004C58C2/$file/sf424.pdf* and *http://contacts.gsa.gov/webforms.nsf/0/5AEB1FA6FB3B832385256A72004C8E77/$file/Sf424a.pdf.* Part II must contain a technical application that demonstrates capabilities in accordance with the Statement of Work (section IV.A) and Rating Criteria (section V.B).

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 45 single-sided (8–1/2″ x 11″), double-spaced, 10 to 12 pitch typed pages for each country, following the format presented in the Statement of Work (section V.B Rating Criteria and Selection). This requirement includes a project document submitted in the format shown in Appendix A. *Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated.* Standard forms and attachments are *not* included in the page limit. Each application must include a table of contents and an abstract summarizing the application in not more that two (2) pages. These pages are also *not* included in the page limits.

The individual signing the SF 424 on behalf of the Applicant must be authorized to bind the Applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at Procurement Services Center after 4:45 p.m. eastern time, June 20, 2003, will not be considered unless it is received before the award is made and:

1. It is determined by the government that the late receipt was due solely to mishandling by government after receipt at the U.S. Department of Labor at the address indicated;

2. It was sent by registered or certified mail not later than the fifth calendar day before June 20, 2003; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to June 20, 2003.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted, however the applicant bears the responsibility for timely submission. Confirmation of receipt can be made with Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free-number) or e-mail: *harvey.lisa@dol.gov.*

D. Funding Levels

Up to U.S. $16 million is available under this solicitation, with up to $5 million for Brazil, up to $3 million for Cambodia, up to $2 million for Benin, up to $3 million for Burkina Faso, and up to $3 million for Mali. USDOL may award one or more grants to one, several, or a partnership of more than one organization which may apply to implement the program. Any subcontractor must be approved by USDOL.

E. Program Duration

The duration of the projects funded by this SGA is for four (4) years. The start date of program activities will be negotiated upon awarding of the grant, but no later than September 30, 2003.

III. Background and Program Scope

A. USDOL Support of Global Elimination of Child Labor

The International Labor Organization (ILO) estimated that 211 million

children between the ages of five and 14 were working around the world in 2000. Full-time child workers are generally unable to attend school, and part-time child laborers balance economic survival with schooling from an early age, often to the detriment of their education. Since 1995, the U.S. Congress has provided USDOL with funds to support worldwide technical assistance programs implemented by the ILO's International Program on the Elimination of Child Labor (ILO/IPEC). To date, USDOL has contributed U.S. $157 million to ILO/IPEC, making the United States the program's largest donor and a leader in global efforts to combat child labor.

Programs funded by USDOL have evolved from targeted action programs in specific sectors to more comprehensive efforts that target the worst forms of child labor as defined by ILO Convention 182. Convention 182 lists four categories of the worst forms of child labor, and calls for their immediate elimination:

- All forms of slavery or practices similar to slavery, such as the sale and trafficking of children; debt bondage and serfdom and forced or compulsory labor; including forced or compulsory recruitment of children for use in armed conflict;
- The use, procurement or offering of a child for prostitution, production of pornography or pornographic performances;
- The use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- Work which by its nature or by the circumstances by which it is carried out, is likely to harm the health, safety, and morals of children.

In determining the types of work likely to harm the health, safety and morals of children, Convention 182 considers the following: Work which exposes a child to physical, psychological or sexual abuse; work underground, underwater, at dangerous heights or in confined workplaces; work with dangerous machinery, equipment and tools or handling or transporting heavy loads; work in an unhealthy environment including exposure to hazardous substances, agents or processes, or to temperatures, noise levels or vibrations damaging to the health; work for long hours or night work where the child is unreasonably confined to the premises.

Children who are trafficked are among the most exploited, and qualify as victims of the worst forms of child labor equivalent to slavery under ILO Convention 182. Trafficked children who work full-time are generally unable to attend school. Furthermore, children who are trafficked have often dropped out of school early or have never attended school at all.

The existence of child labor and the trafficking of children for exploitative employment have many implications for a country. In source communities from which children are trafficked, sending a child to be employed far from home influences others to do likewise. The negative effects of trafficking include poorly educated children with low skills who return to their communities traumatized, in ill health (*e.g.*, HIV/AIDS, sexually transmitted diseases, drug addiction), and susceptible to premature death. It is often challenging to reintegrate these children into communities that are already resource-poor and overburdened with social problems. Contrary to the belief that migration of children is a solution to poverty, it often reproduces it and leads to other social problems.

It is important to undertake education initiatives for children involved in child labor and their at-risk siblings. It is also important to educate children who are victims of or susceptible to trafficking, because their lack of schooling hinders their personal development, as well as that of a modern workforce, overall labor market reform, poverty reduction and social progress. Education is a key investment that has been linked to the acceleration of a nation's productivity and socioeconomic development. Poorly educated workers tend to earn less, live in poverty, and may in turn send their own children to work at a young age. Consequently, it is important to keep children in educational settings instead of in workplaces. Further, keeping children in school protects them from the abuses of child labor and trafficking.

From FY 2001 to FY 2003, in addition to U.S. $135 million earmarked for ILO/IPEC efforts, U.S. $111 million was appropriated to USDOL for a Child Labor Education Initiative to fund programs aimed at increasing access to quality, basic education in areas with a high incidence of abusive and exploitative child labor. The grant(s) awarded under this solicitation will be funded through this initiative.

USDOL's Child Labor Education Initiative seeks to nurture the development, health, safety and enhanced future employability of children around the world by increasing access to basic education for children removed from work or at risk of entering into labor. Child labor elimination depends in part on improving access to, quality of, and relevance of education.

The Child Labor Education Initiative has four goals:

1. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;
2. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;
3. Strengthen national institutions and policies on education and child labor; and
4. Ensure the long-term sustainability of these efforts.

B. Barriers to Education for Working Children and Country Background

1. Child Labor and Barriers of Access to Education

Throughout the world there are complex causes to child labor as well as barriers to education for children engaged in or at risk of child labor. These include:

- *Poverty*—when families need children's income for survival, there is a high opportunity cost to enrolling a child in school, and the direct and indirect costs of schooling are unaffordable.
- *Education system barriers*—which include low quality and relevance of education and curricula; low teacher training/preparation of school personnel to address education of children with special needs, such as child laborers; poor teaching methods; lack of or weak systems to address reintegration of dropouts, or to provide equivalency and/or bridge programs between non-formal and formal or vocational education.
- *Infrastructure barriers*—which include distance to school; inadequate school buildings (too small, too few primary, secondary or vocational schools); overcrowded schools; lack of open spaces for physical activity and related facilities; lack of transportation; lack of latrines, water, electricity and other basic infrastructure.
- *Legal and policy barriers*—which include policies that discourage school enrollment and retention, weak law enforcement, or non-existent, inconsistent or inadequate education policies for working children.
- *Resource gaps*—which include either overall low level of resources within the country, or a low allocation of existing resources relative to the needs of working children, or to child labor eradication or education goals set by government policies.
- *Institutional barriers*—which include weaknesses that hamper an

organization's ability to effectively implement programs, and/or limited coordination among social partners (various level of government, NGOs, private sector) to match existing resources to education gaps and needs of working children.

• *Informational gaps*—which include lack of information on the education needs of child laborers or their educational performance so as to develop relevant and targeted programs; lack of available relevant social indicator data to identify, target and map families with working children; lack of consistent monitoring and evaluation of programs to draw lessons learned, or limited awareness on the part of different actors of the benefits of education for working children.

• *Demographic characteristics of children and/or families*—which include factors that put a child at higher risk of child labor and lack of access to education, such as belonging to an ethnic group, gender or social class, family composition (*e.g.*, single head of household or polygamous household, multiple siblings, etc.), being overage relative to grade.

• *Cultural and traditional practices*—which include community attitudes that children should work and help the family, and attitudes and practices towards gender and social roles.

• *Weak labor markets* and lack of employment for those more educated, which diminish the perceived value of an education, and increases the value of early entry into the labor market.

Although these elements and characteristics tend to exist throughout the world in areas of high child labor, they manifest themselves and/or combine in particular ways in each country of interest in this solicitation. In their response to the solicitation, applicants should be able to identify the specific barriers to education and the education needs of specific children targeted in their project (*e.g.*, children withdrawn from work, children at high risk of drop out into the labor force, children still working in a particular sector, etc.). Short background information on education and child labor in each of the countries of interest is provided below. For additional information on child labor in these countries, applicants are referred to The Department of Labor's 2001 Findings on the Worst Forms of Child Labor available at *http://www.dol.gov/ILAB/media/reports/iclp/tda2001/overview.htm* or in hard copy from Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free-number) or e-mail: *harvey.lisa@dol.gov.*

2. Country Background

Brazil

In 2000, the ILO estimated that 14.4 percent of children of between the ages of 10 and 14 in Brazil were working. The major sectors where children work are agriculture, mining and charcoal industries, domestic service, scavenging in garbage dumps, prostitution, pornography, and drug trafficking. Child labor is most frequent in northern and northeastern Brazil where it is estimated that there are over 700,000 children and adolescents working in farming and agriculture alone.

Most child laborers in Brazil come from families whose per capita income is less than one minimum monthly wage. Throughout the 1990s improving family income and breaking the cycle of poverty through education have been at the core of Brazil's policies to fight child labor. At the Federal level, Brazil administers various programs implemented by different ministries, and has developed commissions to address issues related to child labor. Each state has a group designated to report to the Ministry of Labor and Employment on local activities and initiatives aimed to eliminate child labor.

Brazil's most widespread and innovative child labor prevention and elimination initiatives are the Bolsa Escola Program (school scholarship) and PETI (Child Labor Elimination Program). The Ministry of Education oversees the Bolsa Escola program, which benefits over eight million children and provides mothers with a monetary stipend in return for children's school attendance. The program is the largest of its kind in the world. The PETI program, administered by the Ministry of Social Assistance and Advancement, gives stipends to families that remove children from the worst forms of child labor and keep them in school. Approximately 800,000 children under the program attend public school and a Jornada Ampliada (extended school day) program, to discourage them from working before or after school.

At the core of these programs is the notion that work has a negative effect on the educational development of children and adolescents. In Brazil, the illiteracy rate among child workers is 20 percent compared to 8 percent for children who do not work. Providing education to child workers or children at risk of working supports objectives of Brazil's Education for All (EFA) Ten-Year Plan (1994–2003), and implementation of compulsory attendance policies for ages seven to 14 (grades one through eight). Basic education through grade eight is free. Prompted by the Word Conference on Education for All in 1990, Brazil set its goals to achieve equity through quality education for all by the year 2003. Implementation of Brazil's EFA Plan has attempted to address a number of the country's core objectives, which are: (1) Universal access to basic education; (2) education expansion; (3) valorization of the teaching profession; and (4) improvement of the quality of public education.

Although access to basic education in Brazil has increased tremendously in the last ten years, the quality of education, particularly in rural areas, has suffered. In many cases, schools do not offer classes above the fourth grade, and when they do, curricula are often not contextual to students' lives and teachers are poorly motivated. In addition, the minimum age for work (16) and the age at which compulsory schooling ends (14) are not harmonized. As a result, adolescents have few options and, out of economic need, often choose to work illegally beginning at age 14. These adolescents often engage in hazardous activities without social benefits or legal recourse. All of the factors above, combined with real economic needs of students, contribute to the high dropout rates of youth who leave school to work.

As a result of improved education policy and practice, Brazil has achieved many educational successes over the past decade, including for working children. Yet numerous barriers to the education of working children in Brazil, particularly in rural and peri-urban areas in the north and northeast regions, still remain. The most important gaps/needs for improving the education of children removed from child labor include: (1) Poor quality of education for both classroom and extended day programs; (2) lack of job and skills training for older children; (3) need for improved coordination of programs and services between federal, state, municipal governments, and civil society in the delivery of educational programs at the community level; and (4) gaps in data collection, knowledge management and evaluation of educational initiatives that allow for improved identification of target populations, and performance evaluation and assessment of impact. The project funded by this solicitation will contribute to efforts already underway to prevent and eliminate hazardous child labor by addressing specific barriers to education, and by expanding and improving the impact of existing programs.

Cambodia

A 2001 child labor study conducted by the Cambodian National Institute of Statistics found that over 1.5 million children aged five to 14, or about 45 percent of the age group, were working, almost one-fourth of them more than 35 hours per week. Rates of labor participation by gender were relatively equal. Many working children appear particularly vulnerable to exploitation, such as the 20,000 working children under the age of 15 who reported living away from home during the survey period. In addition, Cambodian children are engaged in some of the worst forms of child labor, such as commercial sexual exploitation (CSE). Cambodia is reported to be a country of origin, transit and destination for trafficking in persons, including children, for the purposes of CSE and various forms of work, including labor and begging. Internal trafficking of children also occurs. Children, primarily girls, also work as domestic servants, and many of them do not attend school.

In this context, the Government of Cambodia has made significant efforts to improve access to quality education for children. In May 2001, the Ministry of Education, Youth and Sports (MOEYS) published its Education Strategic Plan 2001–2005, which established priorities to expand access to quality education opportunities, and to increase the institutional capacity of local schools and communities for involvement in educational decision-making. The plan includes multiple targets that are of relevance to working and/or vulnerable children, including efforts to increase enrollment at the primary and secondary levels; mainstreaming children back into school; improving gender parity; improving educational quality; and increasing persistence and retention indicators.

The government's abolition of start-of-year primary school entry fees in 2001 reportedly led to a large increase in gross and net enrollment rates. Marked progress has also been made in extending access to education through secondary school construction and primary school expansion. NGOs are also active in improving access to and quality of education, and work at the grassroots level with local government officials and communities. Several scholarship programs, including a new large-scale effort by the government, target vulnerable girls to ensure that they enroll in secondary schools, particularly since the dropout rate is disproportionately higher for girls. A Non-Formal Education (NFE) Department within MOEYS focuses on delivering tailored education services to meet the needs of people of all ages, including working children and children out of school.

As a result of these efforts, access to education has improved, as have efficiency indicators such as recent reductions in repetition rates. However, there are still large educational disparities at the provincial and district levels, and serious gender and rural-urban gaps remain. Dropout continues to be a problem. Furthermore, significant numbers of children are effectively barred from returning to the formal school system if they drop out temporarily, as children above the age of 12 are unable to enter grades 1–3. The government has developed an NFE strategy, but implementation of many aspects of it, including providing NFE with a view to mainstreaming recipients, is still in the early stages.

Banteay Meanchey, Otdar Meanchey, Battambang, Siem Reap, Prey Veng, Svay Rieng, and Kampong Cham have been identified as provinces containing significant numbers of children at risk of the worst forms of child labor, particularly trafficking and CSE. Applicants are requested to select up to three provinces in which to focus interventions in selected areas where there is high risk to children of being trafficked and/or becoming engaged in CSE. The areas selected should demonstrate the applicant's clear understanding of risk factors that constitute barriers to the education of children engaged in or at risk of child labor. Applicants are strongly encouraged to focus activities on the primary school level and on the transition to secondary school for two main populations: children who have dropped out of school (or never enrolled) who wish to return and reintegrate into the formal school or pursue alternative education, and children in primary school who are at risk of dropping out.

Applicants are also strongly encouraged to demonstrate how project activities can inform policies to develop a replicable and sustainable strategy that can be brought to scale for larger numbers of working children. This approach would include identification of common factors causing children to drop out and/or fail to enroll in the formal schools, barriers to re-entry for children engaged in or at risk of child labor, and successful models for mainstreaming children from NFE to the formal education system. In particular, proposals should demonstrate how activities will complement, extend and reinforce the objectives of existing national and NGO efforts and the plans of the government of Cambodia. Proposals may also link with other U.S. government-funded or international donor efforts.

West Africa

Benin

In 2000, the ILO estimated that 26.5 percent of children between the ages of 10 and 14 in Benin were working. Children as young as seven years old work on family farms, as domestic servants, on urban construction sites, in public markets, and in other small enterprise-based jobs. In addition, children are trafficked within Benin to the urban areas of Cotonou, Parakou and Porto Novo. There is also the traditional practice of vidomegon, which involves poor rural families placing children (typically daughters) in the homes of wealthier families, often relatives, so that the children may work and receive an education. However, the practice often degenerates into exploitation as children are forced to work as domestic servants, for long hours and with little or no access to education or wages.

Benin is also a source, destination and transit country for the cross-border trafficking of children. Beninese children are usually trafficked into Nigeria, Cameroon, Côte d'Ivoire, Gabon, and Niger, and the country receives children from Burkina Faso, Niger and Togo. Trafficked children are often employed as agricultural workers, domestic servants, and commercial sex workers. More than half of internally trafficked children are girls, while the majority of externally trafficked children are boys. Boys who are trafficked internationally often go to work on cocoa, coffee or cotton plantations in Côte d'Ivoire, or for fishing or manual labor in informal workshops. Many girls who are victims of cross-border trafficking are brought to Gabon to work as domestic servants.

Most victims of child labor and child trafficking originate from rural areas and tend to have little, if any, education even though primary education in Benin is free and compulsory for children between the ages of six and 11 years. Indirect and opportunity costs of attending school are two major barriers that keep children out of school. The gross primary enrollment rate in 1998 was 84.2 percent, although there was a significant gap in boys' and girls' enrollment rates. There is also a considerable disparity between the genders in attendance rates.

A 1997 conference identified and prioritized weaknesses in the education system. Among the top concerns listed were a shortage of trained teachers,

inadequate school infrastructure, and illiteracy (particularly among parents), all of which contribute to high dropout rates. Exacerbating this problem is the lack of education alternatives for children who have returned home or who have been removed from hazardous labor situations.

Furthermore, their communities are not organized to receive them and provide them with an education.

In response to these challenges, in 1999 the Ministry of Family, Social Protection and Solidarity established a unit for Family and Childhood that works on a variety of programs to combat child trafficking, including creating village vigilance committees and building crisis centers for children. The Ministry of Family also works to provide educational spaces for child laborers, particularly those engaged in domestic service and vidomegons.

The National Commission on Child Rights, an inter-ministerial committee headed by the Ministry of Justice, Legislation and Human Rights that includes representatives from NGOs, religious organizations and Parent-Teacher Associations, was established in 2000. The international media attention attracted in 2001 as a result of the Etireno, a ship that was believed to have originated in Benin and was reported to be transporting trafficked children, prompted the Government of Benin to increase its efforts to combat child trafficking and child labor. These efforts included the development of a two-year action plan (2001–2003) by the National Commission on Child Rights to combat trafficking. Benin is also one of nine countries participating in a USDOL-funded project to combat the trafficking of children for exploitative labor in West and Central Africa, described at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm.*

In October 2002, the government of Benin developed a rapid response plan (plan d'urgence) to combat child trafficking, which includes activities to improve legislation and strengthen child protection efforts. Also in 2002, the National Committee against Child Trafficking was formed.

Benin has already made strides in fighting child trafficking and promoting education, particularly within the formal system. In order to foster sustainability and build on existing activities and achievements, applications should take into account existing programs and seek to fill gaps that have not already been addressed. Applicants should especially consider the need for and availability of formal versus non-formal, transitional or vocational education programs in proposed target areas, and tailor approaches accordingly. USDOL would also like to ensure that the EI project complements efforts in Benin already funded by the U.S. government without duplicating them.

Burkina Faso

In 2000, the ILO estimated that 43.5 percent of children between the ages of 10 and 14 in Burkina Faso were working. Most working children in the country are found in agriculture, gold mining and washing, and informal sector activities including domestic service. Children often start working in the mining sector as part of households, at ages as young as six. The HIV/AIDS epidemic has also orphaned numerous children, thereby increasing the population of street children, an at-risk group for child labor, in Ouagadougou and Bobo-Dioulasso.

Due in part to its geographic location, Burkina Faso is a sending, receiving and transit country for trafficked children. Yet few statistics are available on the phenomenon. Furthermore, there is low public recognition of child trafficking as a problem and there is a perception that sending a child to work through trafficking increases family income. The salaries or promised salaries, albeit small, give villagers cause to believe that money is to be made in exodus. In reality, the middlemen who recruit, transport, and place children generally live off the earnings, each receiving a portion of the money promised to the child or family.

External, or cross-border, trafficking represents roughly one-quarter of intercepted children, and the countries most believed to receive children are Côte d'Ivoire, Nigeria, and Mali, with smaller numbers going to Gabon and Niger. The majority of externally trafficked children tend to be boys whose primary destination is Côte d'Ivoire. Foreign children working in Côte d'Ivoire are at greater risk considering the current political unrest in that country.

Seventy-four percent of trafficked children intercepted between September 2001 and May 2002 were moving internally. Of these children, 65 percent were girls. In general, children are trafficked from rural areas such as Tougan, Gaoua, and Diebougou into Bobo-Dioulasso, Ouagadougou and Ouahigouya where they work as domestic servants, street vendors, and in prostitution. An ILO study estimated that more than 81,000 children in Bobo-Dioulasso and Ouagadougou have been internally trafficked and placed in work situations by an intermediary.

Elsewhere children are moved from the northern and central villages, especially in the Dedougou and Boromo regions, for agricultural work in the regions of Bobo-Dioulasso and Banfora. Both boys and girls work in cotton production, an especially arduous and dangerous job considering the hours of work, the intensive physical labor, and the use of pesticides. Cotton producers in Kompienga and the provinces of N'Gourma, Tapoa and Gnagna also hire migrant children. Since this work is seasonal, children may return home at the end of the season.

Many codes in the penal system regulate children's work and protection, but child trafficking itself is not illegal. The Ministry of Social Action and National Solidarity has drafted a National Action Plan on Child Trafficking, and is working with the Ministry of Justice to revise national legislation to address child trafficking. The Ministry of Social Action has also established Vigilance and Surveillance Committees that involve representatives from the Ministry of Employment, police, local authorities and NGOs, employers and transport companies, among others. The government of Burkina Faso has drafted an agreement with Côte d'Ivoire to address child trafficking between the two countries, but the process has stalled due to the current political situation in Côte d'Ivoire. Burkina Faso is one of nine countries participating in a USDOL-funded project to combat the trafficking of children for exploitative labor in West and Central Africa, described at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.ht_.*

Studies of repatriated children who have been trafficked show that most have received little, if any, schooling. Many are from rural, illiterate households. Nationwide, adult literacy rates hover around 24 percent, with less than 15 percent of the adult female population qualifying as literate.

Although education in Burkina Faso is compulsory from ages six to 16, the minimum age to work is 14. In 1998, the gross primary enrollment rate was 42.3 percent, and the gap between boys' and girls' enrollment was significant (50 percent for boys and 34.5 percent for girls). School enrollment is also lower in rural areas (especially in the eastern region of the country), and girls are particularly affected. Other problems that plague the education system include a shortage of trained teachers, high teacher absenteeism, inadequate infrastructure, a French-only system of instruction, and a perception that education is not beneficial (especially in the case of girls). Inaccessibility of

schools in rural areas is exacerbated by a predominance of male teachers, which also reduces girls' attendance.

In order to extend the reach of the education system, the Burkinabe government has opened bilingual satellite schools in several communities where full cycle schools are too far away for younger children, or where older children were unable to attend school at the appropriate age. Upon completing three years at these schools, children can travel longer distances to the nearest primary school. The government has also established non-formal basic education centers for older children who have not gone to school. Education at these centers is bilingual and includes vocational training.

In September of 2002, the government of Burkina Faso launched a 10-Year Basic Education Development Plan (2001–2010), which forms part of the country's poverty reduction strategy. Among the goals that the plan (commonly referred to as PDDEB) to be achieved by 2010 are: 70 percent school enrollment, 40 percent literacy, 3000 satellite schools, and 3000 centers for non-formal basic education. The two primary focus areas of PDDEB are to increase educational access and to improve the quality and efficiency of schooling. PDDEB also envisions increasing girls' enrollment to 65 percent, addressing regional educational disparities, and strengthening the capacity of the educational system.

Given the low rates of literacy and school enrollment in Burkina Faso and the widespread extent of child labor and trafficking, applicants should be strategic in selecting underserved areas with high rates of child labor or trafficking, and inadequate educational options. Applications should be as specific as possible in terms of the population to be targeted and services to be provided, taking care that proposed goals and objectives are realistic and achievable in the given timeframe. More importantly, in view of the fact that PDDEB addresses many of the concerns outlined above and has the commitment of key stakeholders, activities proposed should support PDDEB goals and work within its framework. Applications should clearly explain how proposed activities fit into the 10-year plan, and the contribution they will make to achieving its goals.

Mali

In 2000, the ILO estimated that 51.1 percent of children between the ages of 10 and 14 in Mali were working. Children work in the agricultural sector, in gold mining and gold washing, and as domestic servants in urban areas. Children who are under the tutelage of religious teachers have also been found begging on the streets. Although details vary, it is often reported that Malian children, the majority of them boys, are trafficked outside of the country, predominantly to Côte d'Ivoire, to work on coffee, cotton and cocoa farms. It is also reported that girls are trafficked to Côte d'Ivoire to work as domestic servants. Children are trafficked by agents from organized networks who promise parents to provide the children with paid employment abroad. Commercial farm owners reportedly pay traffickers between U.S. $22 and $43 per child.

Since 1998 Mali has been building its capacity to combat child labor at the national and regional levels. It is one of nine countries participating in a USDOL-funded project to combat the trafficking of children for exploitative labor in West and Central Africa, described at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm*. In collaboration with various private organizations, the president of Mali launched an awareness raising campaign on child labor in January 2002. In March 2002, the Government of Mali ratified ILO Convention 138 on the Minimum Age for Work. The government also has plans to implement a national child labor survey to measure the nature and extent of child labor. In addition, the governments of Mali and Côte d'Ivoire signed a cooperative agreement in 2000 to control cross-border trafficking. The strategy includes the monitoring and prevention of child trafficking, and the repatriation and rehabilitation of children who have been trafficked.

A large number of returned trafficked children are ethnically Dogon. These children come from the impoverished, rural areas of Koulikoro and Mopti. Their families traditionally raise petit-millet crops, which have short harvests from June until September. Since the harvest is managed mostly by women, the Dogon men, well-known for their physical labor, tend to migrate to other rural and urban areas in search of seasonal work. This tradition extends to Dogon children and allows for the early migration of boys, girls and young men to other regions in search of work. Some are trafficked externally from Sikasso, while others find work in the southern cotton-growing regions, or as domestic servants in urban areas.

The Senoufo, an ethnic group found in southern Mali, have extensive family networks that cross into neighboring countries. In addition, the Senoufo have a tradition of traveling to find work. It is reported that unconfirmed numbers of Malian Senoufo boys are trafficked to work on the plantations of Côte d'Ivoire.

In Mali, three kinds of schools exist and they all follow a similar basic structure: government public schools, the religious Madrasas, and community schools. Many parents in Mali, the majority of whom are Muslim, choose to send their children (mostly boys) to Madrasas, or schools that offer Arabic and religious study in addition to basic subjects. However, Madrasas are either too expensive or do not exist in rural areas, so many parents compromise by sending their sons to study religion and literacy with the local Imam. Imams, not associated with the Madrasas, rely on payments from parents for their livelihood.

In Mali, primary education is compulsory and free until the age of 13, however students must pay for their own uniforms and school supplies to attend public schools. About 20 percent fewer girls than boys attend primary school, despite the overall higher population of girls.

In the public schools, success at the primary level is based on a child's ability to use French rather than transferable thinking skills in local languages. The government of Mali recognized the community school model in 1992 in response to locally identified needs for literacy, numeracy, health care, agriculture and other life skills. Community schools teach the first few years of primary school in local languages and are designed to prevent large masses of children from migrating in search of work. To assist community schools, the Malian government has equipped and renovated classrooms, recruited teachers and produced new teaching materials.

Obstacles to quality education for child workers and at risk children still exist, however, and low enrollment and attendance rates, drop outs and failures are partially attributed to parental decisions related to family work load, prohibitive school distances, school fees and other school-related costs. Rural areas also tend to have fewer vocational or literacy programs for working children.

Applicants interested in working in Mali should design a project that addresses the gaps to quality basic education for child workers, trafficked children and at risk children, in areas with a high incidence or culture of child labor, by complementing, but not duplicating, already existing efforts.

IV. Requirements

A. Statement of Work

Taking into account the challenges to educating working children in each country of interest, the applicant shall propose and implement creative and innovative approaches to provide educational opportunities to children engaged in or removed from child labor, particularly the worst forms. The expected outcomes/results of the project are to: (1) increase educational opportunities (enrollment) for children who are engaged in, at risk of, and/or removed from child labor, particularly its worst forms; (2) encourage retention in, and completion of educational programs; and (3) expand the successful transition of children in non-formal education into formal schools or vocational programs.

In the course of implementation, each project shall promote the goals of USDOL's Child Labor Education Initiative listed in section III.A above. Because of the limited available resources under this award, applicants should implement programs that complement existing efforts and, where appropriate, replicate or enhance successful models to serve expanded numbers of children and communities. In order to avoid duplication, enhance collaboration, expand impact, and develop synergies, the grant awardee (hereafter referred to as ''Grantee'') should work cooperatively with national stakeholders in developing project interventions.

Although USDOL is open to all proposals for innovative solutions to address the challenges of providing increased access to education to the children targeted, the applicant must, at a minimum, prepare responses following the outline of a preliminary project document presented in Appendix A. This response will be the foundation for the final project document that will be approved after award of the grant.

Note to All Applicants

The Grantee is expected to consult with and work cooperatively with stakeholders in the countries, including the Ministries of Education and Labor, NGOs, national steering/advisory committees on child labor education, faith and community-based organizations, and working children and their families. Where practical, there should be efforts to collaborate with existing projects, particularly those funded by USDOL.

B. Deliverables

In addition to meeting the above requirements, the Grantee will be expected to monitor the implementation of the program, report to USDOL on a quarterly basis, and undergo evaluation of program results. Guidance on USDOL procedures and management requirements will be provided to the Grantee in written Management Procedures and Guidelines (MPG) after award. The project budget must include funds to plan, implement and evaluate programs and activities, conduct various studies pertinent to project implementation, to establish education baselines to measure program results, and travel to meet with USDOL officials in Washington DC at yearly intervals. Applicants based both within and outside the United States should also budget for travel to Washington DC at the beginning for a post-award meeting with USDOL. Indicators of performance will also be developed by the Grantee and approved by USDOL. Unless otherwise indicated, the Grantee must submit copies of all required reports to ILAB by the specified due dates. Specific deliverables are the following:

1. Project Design Document

The Grantee will prepare a preliminary project document in the format described in Appendix A, with design elements linked to a logical framework matrix. *See http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm* for a worked example. The project document will include a background/justification section, project strategy (goal, purpose, outputs, activities, indicators, means of verification, assumptions), project implementation timetable and project budget. The narrative will address the criteria/themes described in section V.B.1 below Program Design/Budget-Cost Effectiveness. The final project design document will be based on the application written in response to this solicitation, but will include the results of additional consultation with stakeholders, partners, and ILAB. The document will also include sections that address coordination strategies, project management and sustainability. The final project document will be delivered three months after the time of the award.

2. Technical and Financial Progress Reports

The format for the technical progress report will be provided in the MPG distributed after the award. The Grantee must furnish a typed technical report to ILAB on a quarterly basis by 31 March, 30 June, 30 September, and 31 December. Technical reports will include:

a. For each project objective, an accurate account of activities carried out under that objective during the reporting period;

b. A description of current problems that may impede performance, and proposed corrective action;

c. Future actions planned in support of each project objective;

d. Aggregate amount of costs incurred during the reporting period relative to each objective; and

e. Progress on common Government Performance and Results Act (GPRA) indicators (to be reported *semi-*annually) to be provided to Grantees after award.

The Grantee must also furnish separate financial reports (SF 272 and 269) to ILAB on the quarterly basis mentioned above.

3. Annual Work Plan

An annual work plan will be developed within three months of project award and approved by ILAB so as to ensure coordination with other relevant social actors in the country. Subsequent annual work plans will be delivered no later than one year after the previous one.

4. Performance Monitoring and Evaluation Plan

A performance monitoring and evaluation plan will be developed, in collaboration with ILAB, including beginning and ending dates for the project, planned and actual dates for mid-term review, and final end of project evaluations. The performance monitoring plan will be developed in conjunction with the logical framework project design and common indicators for GPRA reporting selected by ILAB. Baseline data collection will be tied to the indicators of the project design document and the performance monitoring plan. A draft monitoring and evaluation plan will be submitted to ILAB within four months of project award.

5. Project Evaluation

The Grantee and the Grant Officer's Technical Representative (GOTR) will determine on a case-by-case basis whether mid-term evaluations will be conducted by an internal or external evaluation team. All final evaluations will be external in nature. The Grantee must respond in writing to any comments and recommendations resulting from the review of the mid-term report. The budget must include

the projected cost of mid-term and final evaluations.

C. Production of Deliverables

1. Materials Prepared Under the Cooperative Agreement

The Grantee must submit to ILAB all media-related and educational materials developed by it or its sub-contractors before they are reproduced, published, or used. ILAB considers that education materials include brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the program. ILAB will review materials for technical accuracy. The Grantee must obtain prior approval from the Grant's Officer Technical Representative for all materials developed or purchased under this grant. All materials produced by the Grantee must be provided to ILAB in digital format for possible publication by ILAB.

2. Acknowledgement of USDOL Funding

In all circumstances, the following must be displayed on printed materials:

• ''Preparation of this item was funded by the United States Department of Labor under Cooperative Agreement No. E–9–X–X–XXXX.''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds, including State and local governments and recipients of Federal research grants, must clearly state:

a.The percentage of the total costs of the program or project that will be financed with Federal money;

b. The dollar amount of Federal funds for the project or program; and

c. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

In consultation with ILAB, USDOL will be acknowledged in one of the following ways:

a. The USDOL logo may be applied to USDOL-funded material prepared for worldwide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.

b. If ILAB determines that the use of the logo is not appropriate and written permission is not given, the following notice must appear on the document: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. government.''

D. Administrative Requirements

1. General

Grantee organizations are subject to applicable U.S. Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable U.S. Federal cost principles. The Grantee will also be required to submit to a bi-annual independent audit, and costs for such an audit should be included in direct or indirect costs, whichever is appropriate.

The grant awarded under this SGA is subject to the following administrative standards and provisions, if applicable:

29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

29 CFR Part 93—New Restrictions on Lobbying.

29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 98—Federal Standards for Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

29 CFR Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

Applicants are reminded to budget for compliance with the administrative requirements set forth. This includes the cost of performing administrative activities such as financial audit, closeout, evaluation, document preparation, as well as compliance with procurement and property standards. Copies of all regulations referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov.*

2. Sub-Contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876, as amended, 13230, 12928 and 13021, as amended, the Grantee is strongly encouraged to provide sub-contracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

3. Key Personnel

The applicant shall list an individual(s) who has been designated as having primary responsibility for the conduct and completion of all project work. The applicant must submit written proof that key personnel will be available to begin work on the project no later than three weeks after award. The Grantee agrees to inform the GOTR whenever it appears impossible for this individual(s) to continue work on the project as planned. The Grantee may nominate substitute personnel and submit the nominations to the GOTR; however, the Grantee must obtain prior approval from the Grant Officer for all key personnel. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

4. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations shall involve only specified commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period shall be liquidated within 90 days after the end of the grant period, if practicable.

5. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee shall provide and shall require its sub-contractors to provide all reasonable facilities and assistance for

the safety and convenience of government representatives in the performance of their duties. All site visits and evaluations shall be performed in a manner that will not unduly delay the work.

V. Review and Selection of Applicants for Award

A. The Review Process

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. Each complete application will be objectively rated by a technical panel against the criteria described in this announcement. Applicants are advised that panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select a Grantee on the basis of the initial application submission; or, the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of applications, the evaluations process described above will be repeated to consider such revisions. The Grant Officer will make final selection determinations based on panel findings and consideration of factors that may be most advantageous to the government, such as geographic distribution of the competitive applications, cost, the availability of funds and other factors. The Grant Officer's determinations for awards under this SGA are final.

Note: Selection of an organization as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

B. Rating Criteria and Selection

The technical panel will review applications written in the specified format (*see* section III.B and Appendix A) against the various criteria on the basis of 100 points. Five additional points will be given for non-Federal or leveraged resources. Applicants are requested to prepare their written response (45 page maximum) on the basis of the following rating factors, which are presented in the order of emphasis that they will receive.

Program Design/Budget-Cost Effectiveness: 45 points
Organizational Capacity: 30 points
Management Plan/Key Personnel/ Staffing: 25 points
Leveraging: 5 extra points

1. Project/Program Design/Budget—Cost Effectiveness (45 points)

This part of the application constitutes the preliminary project document described in section IV.B.1 and outlined in Appendix A. (**Note:** The supporting logical framework matrix will not count in the 45-page limit but should be included as an annex to the project document. To guide applicants, a sample logical framework matrix for a hypothetical child labor education project is available at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm*.) The applicant should describe in detail the proposed approach to comply with each requirement in section IV.A of this solicitation.

This component of the application should demonstrate the applicant's thorough knowledge and understanding of the issues, barriers and challenges involved in providing education to children engaged in or at risk of engaging in child labor, particularly its worst forms; best-practice solutions to address their needs; and the implementing environment in the selected country. When complying with the project document outline, the applicant should at minimum include a description of:

- *Children Targeted*—The applicant will identify which and how many children will benefit from the project, including the sectors in which they work, geographical location, and other relevant characteristics.
- *Needs/Gaps/Barriers*—The applicant will describe the specific gaps/educational needs of the children targeted that the project will address.
- *Proposed Strategy*—The applicant will discuss the proposed strategy to address gaps/needs/barriers and its rationale.
- *Description of Activities*—The applicant will provide a detailed description of proposed activities that relate to the gaps/needs/barriers to be addressed including training and technical assistance to be provided to project staff, host country nationals, and community groups involved in the project. Ideally, the proposed approach should build upon existing activities, and government policies and plans and avoid needless duplication.
- *Work Plan*—The applicant will provide a detailed work plan and timeline for the proposed project, preferably with a visual such as a Gantt chart.
- *Program Management and Performance Assessment*—The applicant will describe: (1) How management will ensure that the goals and objectives will be met; (2) how information and data will be collected and used to demonstrate the impacts of the project; and (3) what systems will be put in place for self-assessment, evaluation and continuous improvement. USDOL has already developed common indicators and a database system for monitoring children's educational progress that can be used and adapted by Grantees after award so that they do not need to set up this type of system from scratch.
- *Budget/Cost Effectiveness*—The applicant will show how the budget reflects program goals and design in a cost-effective way so as to reflect budget/performance integration. The budget should be linked to the activities and outputs of the implementation plan listed above. This section of the application should explain the costs for performing all of the requirements presented in this solicitation, and for producing all required reports and other deliverables. Costs must include labor, equipment, travel, audits, evaluations, and other related costs. Preference may be given to applicants with low administrative costs, and all costs should be reported as they will become part of the cooperative agreement upon award. In their cost proposal, applicants must reflect a breakdown of the total administrative costs into direct administrative costs and indirect administrative costs. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in section III of this solicitation. Applicants are advised that customs and Value Added Tax (VAT) exemptions may not be allowed, and should take into account such costs in budget preparation. If major costs are omitted, the Grantee may not be allowed to include them later.

2. Organizational Capacity (35 points)

The applicant should present the qualifications of the organization(s) implementing the program/project. The evaluation criteria in this category are as follows:

a. *International Experience*—The organization applying for the award has international experience implementing basic, transitional, non-formal or vocational education programs that address issues of access, quality, and policy reform for vulnerable children including children engaged in or at risk of child labor, preferably in the country of interest or neighboring countries.

b. *Country Presence*—An applicant must demonstrate a country presence, or the capability to establish a country presence, independently or through a relationship with another organization(s) with country presence, which gives it the capability to work directly with government ministries, educators, civil society leaders, and other local faith-based or community organizations. Applicants without country presence must provide evidence that legal country presence can be established within 90 days of award. For applicants that do not have independent country presence, documentation of the relationship with the organization(s) with such a presence must be provided, or the capacity to establish such a relationship within 90 days of award.

c. *Fiscal Oversight*—The organization shows evidence of a sound financial system. The results of the most current independent financial audit must accompany the application, and applicants without one will not be considered.

d. *Coordination*—If two or more organizations are applying for the award in the form of a partnership, they must demonstrate an approach to ensure the successful collaboration including clear delineation of respective roles and responsibilities. The applicants must also identify the lead organization (Grantee) and submit the partnership agreement. Partners of the Grantee will be designated as contractors or sub-contractors.

e. *Experience*—The application must include information about previous grant or contracts of the applicant and partners that are relevant to this solicitation including:

1. The organizations for which the work was done;

2. A contact person in that organization with their current phone number;

3. The dollar value of the grant, contract, or cooperative agreement for the project;

4. The time frame and professional effort involved in the project;

5. A brief summary of the work performed; and

6. A brief summary of accomplishments.

This information on previous grants and contracts held by the applicant and partners shall be provided in appendices and will *not* count in the maximum page requirement.

3. Management/Plan/Key Personnel/ Staffing (25 points)

Successful performance of the proposed work depends heavily on the management skills and qualifications of the individuals committed to the project. Accordingly, in its evaluation of each application, USDOL will place emphasis on the applicant's management approach and commitment of personnel qualified for the work involved in accomplishing the assigned tasks. This section of the application must include sufficient information to judge management and staffing plans, and the experience and competence of program staff proposed for the project to assure that they meet the required qualifications. Information provided on the experience and educational background of personnel should include the following:

a. The identity of key personnel assigned to the project. ''Key personnel'' are staff who are essential to the successful operation of the project and completion of the proposed work and, therefore, may not be replaced or have hours reduced without the approval of the Grant Officer.

b. The educational background and experience of all staff to be assigned to the project.

c. The special capabilities of staff that demonstrate prior experience in organizing, managing and performing similar efforts.

d. The current employment status of staff and availability for this project. The applicant must also indicate whether the proposed work will be performed by persons currently employed or is dependent upon planned recruitment or sub-contracting.

Note that management and professional technical staff members comprising the applicant's proposed team should be individuals who have prior experience with organizations working in similar efforts, and are fully qualified to perform work specified in the Statement of Work. Where sub-contractors or outside assistance are proposed, organizational control should be clearly delineated to ensure responsiveness to the needs of USDOL. Key personnel must sign letters of agreement to serve on the project, and indicate availability to commence work within three weeks of grant award.

In this section, the following information must be furnished:

a. *Key personnel*—For each country for which an application is submitted, the applicant must designate the key personnel listed below. If key personnel are not designated, the application will not be considered.

i. A Project Director (Key Personnel) to oversee the project and be responsible for implementation of the requirements of the grant. The Program Director must have a minimum of three years of professional experience in a leadership role in implementation of complex basic education programs in developing countries in areas such as education policy; improving educational quality and access; educational assessment of disadvantaged students; development of community participation in the improvement of basic education for disadvantaged children, and monitoring and evaluation of basic education projects. Points will be given for candidates with additional years of experience including experience working with officials of ministries of education and/or labor. Preferred candidates will also have knowledge of child labor issues, and experience in the development of transitional, formal, and vocational education of children removed from child labor and/or victims of the worst forms of child labor. Fluency in English is required and working knowledge of the official language(s) spoken in the target countries is preferred.

ii. An Education Specialist (Key Personnel) who will provide leadership in developing the technical aspects of this project in collaboration with the Project Director. This person must have at least three years experience in basic education projects in developing countries in areas including student assessment, teacher training, educational materials development, educational management, and educational monitoring and information systems. This person must have experience in working successfully with ministries of education, networks of educators, employers' organizations and trade union representatives or comparable entities. Additional experience with child labor/education policy and monitoring and evaluation is an asset. Working knowledge of English preferred, as is a similar knowledge of official language(s) spoken in the target country.

b. *Other Personnel*—The applicant must identify other program personnel proposed to carry out the requirements of this solicitation.

c. *Management Plan*—The management plan must include the following:

i. A description of the functional relationship between elements of the project's management structure;

ii. The identity of the individual responsible for project management and the lines of authority between this individual and other elements of the project.

d. *Staff loading Plan*—The staff loading plan must identify all key tasks and the person-days required to complete each task. Labor estimated for each task must be broken down by individuals assigned to the task, including sub-contractors and consultants. All key tasks should be charted to show time required to perform them by months or weeks.

e. *Roles and Responsibilities*—The applicant must include a resume and description of the roles and responsibilities of all personnel proposed. Resumes must be attached in an appendix. At a minimum, each resume must include: the individual's current employment status and previous work experience, including position title, duties, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed, *e.g.*, manager, team leader, consultant, etc. Indicate whether the individual is currently employed by the applicant, and (if so) for how long.

4. Leverage of Grant Funding (5 points)

The Department will give up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the dollar amount, size and scope of the application. These programs will not be financed by the project, but can complement and enhance project objectives. Applicants are also encouraged to leverage activities such as micro-credit or income generation projects for adults that are not directly allowable under the grant. To be eligible for the additional points, the applicant must list the source(s) of funds, the nature, and possible activities anticipated with these funds under this grant and any partnerships, linkages or coordination of activities, cooperative funding, etc.

Signed in Washington, DC, this 6th day of May, 2003.

Daniel P. Murphy,

Grant Officer.

Appendix A: Project Document Format

Executive Summary

1. Background and Justification

2. Target Groups

3. Program Approach and Strategy

3.1 Narrative of Approach and Strategy (and linked to Logical Framework matrix).
3.2 Project Implementation Timeline (Gantt Chart of Activities linked to Logical Framework).
3.3 Budget (with cost of Activities linked to Outputs for Budget Performance Integration).

4. Project Monitoring and Evaluation

4.1 Indicators and Means of Verification.*
4.2 Baseline Data Collection Plan.

5. Institutional and Management Framework

5.1 Institutional Arrangements for Implementation.
5.2 Collaborating and Implementing Institutions (Partners) and Responsibilities.
5.3 Other Donor or International Organization Activity and Coordination.
5.4 Project Management Organizational Chart.

6. Inputs

6.1 Inputs provided by the DOL.
6.2 Inputs provided by the Grantee.
6.3 National and/or Other Contributions.

7. Sustainability

Annex A: Full presentation of the Logical Framework matrix.

(A worked example of a Logical Framework matrix and other background documentation for this SGA are available from the ILAB Web site at *http://www.dol.gov/ILAB/grants/education/sga0305/bkgrdSGA0305.htm*.)

[FR Doc. 03–11857 Filed 5–12–03; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act of 1998 (WIA); Notice of Incentive Funding Availability for Program Year (PY) 2001 Performance

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, in collaboration with the Department of Education, announces that 16 states are eligible to apply for Workforce Investment Act (WIA) (Pub. L. 105–220, 29 U.S.C. 2801 *et seq.*) incentive awards under the WIA Regulations.

DATES: The 16 eligible states must submit their applications for incentive funding to the Department of Labor by June 27, 2003.

ADDRESSES: Submit applications to the Employment and Training Administration, Performance and Results Office, 200 Constitution Avenue NW., Room N–5306, Washington, DC 20210, Attention: Karen Staha, 202–693–2917 (phone), 202–693–3991 (fax), e-mail: *Staha.Karen@dol.gov*. Please be advised that mail delivery in the Washington, D.C. area has been inconsistent because of concerns about anthrax contamination. States are encouraged to submit applications via e-mail.

FOR FURTHER INFORMATION CONTACT: The Performance and Results Office: Karen Staha (phone: 202–693–2917 or e-mail: *Staha.Karen@dol.gov)*. (This is not a toll-free number.) Information may also be found at the Web site: *http://www.doleta.gov/usworkforce/*.

SUPPLEMENTARY INFORMATION: 16 states (*see* list below) have qualified to receive a share of the $29.8 million available for incentive grant awards under WIA section 503. These funds are available to the states through June 30, 2005, to support innovative workforce development and education activities that are authorized under title I (Workforce Investment Systems) or title II (the Adult Education and Family Literacy Act (AEFLA)) of WIA, or under the Perkins Act (Pub. L. 105–332, 20 U.S.C. 2301 *et seq.*). In order to qualify for a grant award, a state must have exceeded performance levels, agreed to by the Secretaries, Governor, and State Education Officer, for outcomes in WIA title I, adult education (AEFLA), and vocational education (Perkins Act) programs. The goals included placement after training, retention in employment, and improvement in literacy levels, among other measures. After review of the performance data submitted by states to the Department of Labor and to the Department of Education, each Department determined which states would qualify for incentives for its program(s). (See below for a list of the states that qualified under all three Acts.) These lists of eligible states were compared, and states that qualified under all three programs are eligible to receive an incentive grant award. The amount that each state is eligible to receive was determined by the Department of Labor and the Department of Education and is based

* Initial choice of and justification of indicators and means of verification can be refined and/or adapted after baseline collection and development of Monitoring and Evaluation Plan.

on WIA section 503(c)(20 U.S.C. 9273(c)), and is proportional to the total funding received by these states for the three Acts.

The states eligible to apply for incentive grant awards, and the amounts they are eligible to receive, are listed below:

State	Amount of award
1. Colorado	$1,138,334
2. Florida	3,000,000
3. Illinois	3,000,000
4. Kentucky	2,074,242
5. Louisiana	3,000,000
6. Maryland	1,944,845
7. Montana	750,000
8. North Dakota	750,000
9. Nebraska	750,000
10. Oklahoma	1,382,134
11. South Carolina	1,866,263
12. South Dakota	750,000
13. Tennessee	2,604,604
14. Texas	3,000,000
15. Washington	3,000,000
16. Wyoming	750,000

These eligible states must submit their applications for incentive funding to the Department of Labor by (insert date 45 days after date of publication), 2003. As set forth in the provisions of WIA section 503(b)(2) (20 U.S.C. 9273(b)(2)), 20 CFR 666.220(b) and Training and Employment Guidance Letter (TEGL) No. 20–01, Change 1, Application Process for Workforce Investment Act (WIA) Section 503 Incentive Grants, Program Year 2001 Performance, which is available at *http://www.doleta.gov/usworkforce/*, the application must include assurances that:

A. The legislature of the state was consulted with respect to the development of the application.

B. The application was approved by the Governor, the eligible agency for adult education (as defined in section 203(4) of WIA (20 U.S.C. 9202(4))) and the state agency responsible for vocational and technical education programs (as defined in section 3(9) of Perkins III (20 U.S.C. 2302(9)).

C. The state and the eligible agency, as appropriate, exceeded the state adjusted levels of performance for WIA title I, the state adjusted levels of performance for the AEFLA, and the performance levels established for Perkins Act programs.

In addition, states are requested to provide a description of the planned use of incentive grants as part of the application process, to ensure that the state's planned activities are innovative and are otherwise authorized under the WIA title I, the AEFLA, and/or the Perkins Act as amended, as required by WIA Section 503(a). TEGL No. 20–01, Change 1 provides the specific application process that states must follow to apply for these funds.

The applications may take the form of a letter from the governor, or designee, to the Assistant Secretary of Labor, Emily Stover DeRocco, Attention: Karen Staha, 200 Constitution Avenue NW, Room N–5306, Washington, D.C. 20210. In order to expedite the application process, states are encouraged to submit their applications electronically to Karen Staha at *Staha.Karen@dol.gov*. The states will receive their incentive awards by June 30, 2003.

Signed at Washington, D.C., this 7th day of May, 2003.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

BILLING CODE 4510–30–P

State	PY2001 Performance Qualifies State for Incentives			
	WIA (title I)	AEFLA (Adult Education)	Perkins Act (Vocational Education)	WIA title I; AEFLA; Perkins Act
1. Alaska		X	X	
2. Alabama			X	
3. Arkansas		X	X	
4. Arizona		X	X	
5. California		X	X	
6. Colorado	X	X	X	X
7. Connecticut		X	X	
8. District of Columbia		X	X	
9. Delaware		X	X	
10. Florida	X	X	X	X
11. Georgia		X	X	
12. Hawaii		X	X	
13. Iowa		X	X	
14. Idaho	X		X	
15. Illinois	X	X	X	X
16. Indiana		X	X	
17. Kansas	X	X		
18. Kentucky	X	X	X	X
19. Louisiana	X	X	X	X
20. Massachusetts		X	X	
21. Maryland	X	X	X	X
22. Maine		X	X	
23. Michigan		X	X	
24. Minnesota	X		X	
25. Missouri		X	X	
26. Mississippi		X	X	
27. Montana	X	X	X	X
28. North Carolina		X	X	
29. North Dakota	X	X	X	X
30. Nebraska	X	X	X	X
31. New Hampshire		X	X	
32. New Jersey		X	X	
33. New Mexico		X		
34. Nevada			X	
35. New York	X		X	
36. Ohio		X	X	
37. Oklahoma	X	X	X	X
38. Oregon		X	X	
39. Pennsylvania		X	X	
40. Puerto Rico	X		X	
41. Rhode Island		X	X	
42. South Carolina	X	X	X	X
43. South Dakota	X	X	X	X
44. Tennessee	X	X	X	X
45. Texas	X	X	X	X
46. Utah			X	
47. Virginia		X	X	
48. Vermont			X	
49. Washington	X	X	X	X
50. Wisconsin		X	X	
51. West Virginia		X	X	
52. Wyoming	X	X	X	X

[FR Doc. 03–11856 Filed 5–12–03; 8:45 am]
BILLING CODE 4510–30–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–050)]

Aerospace Safety Advisory Panel (ASAP); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Wednesday, May 28, 2003, 1 p.m. to 2 p.m. Eastern Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW., Room 6H46A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard B. Sirota, Executive Director, Aerospace Safety Advisory Panel, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0914.

SUPPLEMENTARY INFORMATION: This meeting will be conducted via telecon with Panel members and consultants. This meeting will be open to the public up to the seating capacity of the room (45). The Aerospace Safety Advisory Panel is performing an evaluation of the safety upgrades for the T–38 aircraft. Visitors will be requested to sign a visitor's register and asked to comply with NASA security requirements, including the presentation of a valid picture ID before receiving an access badge. Foreign Nationals attending this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; Green card/via information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); and title/position of visitor. To expedite admittance, attendees can provide identifying information in advance by contacting Ms. Michele Dodson via e-mail at *Michele.D.Dodson@nasa.gov* or by telephone at (202) 358–0914.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–11817 Filed 5–12–03; 8:45 am]
BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–051)]

NASA Advisory Council, Planetary Protection Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Planetary Protection Advisory Committee (PPAC).

DATES: Thursday, May 29, 2003, 6:30 p.m. to 9:15 p.m., Friday, May 30, 2003, 8:30 a.m. to 5 p.m., and Saturday, May 31, 2003, 8:30 a.m. to 2:30 p.m.

ADDRESSES: Hilton Cocoa Beach, 1550 North Atlantic Avenue, Cocoa Beach, Florida 32931.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Friday, May 30, 2003, 11 a.m. to noon, in accordance with the Government Sunshine Act, 5 U.S.C. 552b(c)(3), to hear a briefing on Mars Planetary Protection issues associated with an ongoing procurement. All other times of the meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Planetary Protection Program Status/Plans

—Mars Planetary Protection and Current Standards

—Communications Issues in Planetary Protection

—Solar System Exploration Planetary Protection Status

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–11901 Filed 5–12–03; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 12, 2003 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on February 12, 2003 (68 FR 7149 and 7150). No comments were received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed collection informations are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title*: Request to Microfilm Records.
OMB number: 3095–0017.

Agency form number: None.
Type of review: Regular.
Affected public: Companies and organizations that wish to microfilm archival holdings in the National Archives of the United States or a Presidential library for micropublication.
Estimated number of respondents: 5.
Estimated time per response: 10 hours.
Frequency of response: On occasion (when respondent wishes to request permission to microfilm records).
Estimated total annual burden hours: 50
Abstract: The information collection is prescribed by 36 CFR 1254.92. The collection is prepared by companies and organizations that wish to microfilm archival holdings with privately-owned equipment. NARA uses the information to determine whether the request meets the criteria in 36 CFR 1254.94, to evaluate the records for filming, and to schedule use of the limited space available for filming.

2. *Title*: Request to film, photograph, or videotape at a NARA facility for news purposes.
OMB number: 3095–0040.
Agency form number: None.
Type of review: Regular.
Affected public: Business or other for-profit, not-for-profit institutions.
Estimated number of respondents: 660.
Estimated time per response: 10 minutes.
Frequency of response: On occasion.
Estimated total annual burden hours: 110
Abstract: The information collection is prescribed by 36 CFR 1280.48. The collection is prepared by organizations that wish to film, photograph, or videotape on NARA property for news purposes. NARA needs the information to determine if the request complies with NARA's regulation, to ensure protections of archival holdings, and to schedule the filming appointment.

3. *Title*: Request to use NARA facilities for events.
OMB number: 3095–0043.
Agency form number: NA 16008.
Type of review: Regular.
Affected public: Not-for-profit institutions, individuals or households, business or other for-profit, Federal government.
Estimated number of respondents: 52.
Estimated time per response: 30 minutes.
Frequency of response: On occasion.
Estimated total annual burden hours: 26
Abstract: The information collection is prescribed by 36 CFR 1280.74. The collection is prepared by organizations that wish to use NARA public areas for an event. NARA uses the information to determine whether or not we can accommodate the request and to ensure that the proposed event complies with NARA regulations.

Dated: May 5, 2003.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 03–11774 Filed 5–12–03; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph F. Burt at the above address or (703) 292–8180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows: Joseph Bordogna, Deputy Director, Chairperson; Mary E. Clutter, Assistant Director for Biological Sciences; Deborah L. Crawford, Deputy Assistant Director for Computer and Information Science and Engineering; Anthony A. Arnolie, Director, Office of Information and Resource Management.

Dated: May 6, 2003.

Joseph F. Burt,

Acting Director, Division of Human Resource Management.

[FR Doc. 03–11820 Filed 5–12–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC, PSEG Nuclear, LLC, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3; Notice of Issuance of Renewed Facility Operating License Nos. DPR–44, and DPR–56 for an Additional 20-Year Period

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Renewed Facility Operating License Nos. DPR–44, and DPR–56 to Exelon Generation Company, LLC (Exelon) and PSEG Nuclear, LLC (the licensees) of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom, Units 2 and 3). Exelon is the operator of Peach Bottom, Units 2 and 3. Renewed Facility Operating License No. DPR–44 authorizes operation of Peach Bottom, Unit 2, by Exelon at reactor core power levels not in excess of 3514 megawatts thermal in accordance with the provisions of the Peach Bottom, Unit 2, renewed license and the Technical Specifications. Renewed Facility Operating License No. DPR–56 authorizes operation of Peach Bottom, Unit 3, by Exelon at reactor core power levels not in excess of 3514 megawatts thermal in accordance with the provisions of the Peach Bottom, Unit 3, renewed license and the Technical Specifications.

Peach Bottom, Units 2 and 3, are boiling water nuclear reactors located partly in Peach Bottom Township, York County, partly in Drumore Township, Lancaster County and partly in Fulton Township, Lancaster County in southeastern Pennsylvania.

The applications for the renewed licenses complied with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As required by the Act and the Commission's regulations in 10 CFR Chapter I, the Commission has made appropriate findings, which are set forth in each license. Prior public notice of the action involving the proposed issuance of these renewed licenses and of an opportunity for a hearing regarding the proposed issuance of these renewed licenses was published in the **Federal Register** on August 31, 2001 (66 FR 46036).

For further details with respect to this action, see (1) the Exelon Generation Company's license renewal applications for Peach Bottom, Units 2 and 3, dated July 2, 2001, as supplemented by letters dated November 26 and December 19,

2002, and January 14, January 29, January 31, and February 5, 2003; (2) the Commission's Safety Evaluation Report (SER), dated February 5, 2003 (NUREG–1769); (3) the licensee's Updated Final Safety Analysis Report; and (4) the Commission's Final Environmental Impact Statement, NUREG–1437, Supplement 10, dated January 22, 2003. These documents are available at the NRC's Public Document Room, One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be available electronically from the Agency wide Documents Access and Management System (ADAMS). Public Electronic Reading Room on the internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference Staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Copies of Renewed Facility Operating License Nos. DPR–44 and DPR–56 may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Director, Division of Regulatory Improvement Programs. Copies of the Safety Evaluation Report, NUREG–1769, and the Final Environmental Impact Statement, NUREG–1437, Supplement 10) may be purchased from the National Technical Information Service, Springfield, Virginia 22161–0002 (*http://www.ntis.gov*), 1–800–553–6847, or the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954 (*http://www.access.gpo.gov/su_docs*), 202–512–1800. All orders should clearly identify the NRC publication number and the requestor's Government Printing Office deposit account number or VISA or MasterCard number and expiration date.

Dated at Rockville, Maryland, this 7th day of May 2003.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 03–11839 Filed 5–12–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–29 and DPR–30, issued to Exelon Generation Company, LLC (the licensee), for operation of the Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendments would modify Technical Specification Surveillance Requirements to provide an alternative means of testing the Unit 1 main steam electromatic relief valves (ERVs), including those that provide the automatic depressurization and the low set relief functions, and provide an alternative means for testing the Units 1 and 2 dual function Target Rock safety/relief valves (S/RVs).

In its application for the exigent amendment, the licensee stated that on Unit 1, the 3A S/RV and 3C and 3D ERVs are currently leaking as evidenced by elevated tailpipe temperatures. The high tailpipe temperatures are indicative of steam leakage past the pilot valves or main valve seats. Leakage from ERVs and S/RVs is discharged to a point below the minimum water level in the suppression pool. Thus, the steam leakage can result in increasing suppression pool temperature. In addition, leakage past the pilot valves of S/RVs could cause an inadvertent opening of the main valve. Experience in the industry and at QCNPS indicates that manual actuation of main steam relief valves during plant operation can lead to increased seat leakage. As a result, the licensee plans as part of a maintenance outage previously scheduled for May 20, 2003, to replace the 3A S/RV. In addition, the 3C and 3D ERVs may also be replaced during the maintenance outage, pending results of additional testing to be performed at the start of the outage. This is being done based on the potential for steam leakage past the ERVs and S/RVs to result in increased suppression pool temperature. In addition, the alternative testing proposed for the 3A S/RV will reduce the potential for pilot valve leakage which can cause an inadvertent opening of the S/RV and impair the ability to re-close the valve. The need for this license amendment was identified shortly following an inadvertent opening of a relief valve on Unit 2 that occurred April 16, 2003, and the S/RV and ERV work was added to the scope of the planned maintenance outage on April 23, 2003. The licensee states that it has used its best efforts to make a timely application for the amendment. To support plant startup following the outage, efforts to minimize the potential for increased suppression pool temperature caused by leaking relief valves, and the desire to minimize an inadvertent opening of an S/RV, the licensee requested NRC approval of the proposed changes by May 29, 2003. This need date precludes use of the normal 30-day notice period. Accordingly, as described above, the basis for an exigent amendment request exists and the current situation could not have been avoided.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes modify Technical Specification (TS) Surveillance Requirement (SR) 3.4.3.2, SR 3.5.1.10, and SR 3.6.1.6.1 to provide an alternative means for testing the main steam line relief valves, automatic depressurization system valves, and low set relief valves. Accidents are initiated by the malfunction of plant equipment, or the catastrophic failure of plant structures, systems, or components. The performance of relief valve testing is not a precursor to any accident previously evaluated and does not change the manner in which the valves are operated. The proposed testing requirements will not contribute to the failure of the relief

valves nor any plant structure, system, or component. Exelon Generation Company, LLC (EGC) has determined that the proposed change in testing methodology provides an equivalent level assurance that the relief valves are capable of performing their intended safety functions. Thus, the proposed changes do not affect the probability of an accident previously evaluated.

The performance of relief valve testing provides confidence that the relief valves are capable of depressurizing the reactor pressure vessel (RPV). This will protect the reactor vessel from overpressurization and allowing the combination of the Low Pressure Coolant Injection and Core Spray systems to inject into the RPV as designed. The low set relief logic causes two low set relief valves to be opened at a lower pressure than the relief mode pressure setpoints and causes the low set relief valves to stay open longer, such that reopening of more than one valve is prevented on subsequent actuations. Thus, the low set relief function prevents excessive short duration relief valve cycles with valve actuation at the relief setpoint, which avoids induced thrust loads on the relief valve discharge line for subsequent actuations of the relief valve. The proposed changes do not affect any function related to the safety mode of the dual function safety/relief valves. The proposed changes involve the manner in which the subject valves are tested, and have no affect [sic] on the types or amounts of radiation released or the predicted offsite doses in the event of an accident. The proposed testing requirements are sufficient to provide confidence that the relief valves are capable of performing their intended safety functions. In addition, a stuck open relief valve accident is analyzed in the QCNPS Updated Final Safety Analysis Report. Since the proposed testing requirements do not alter theassumptions for the stuck open relief valve accident, the radiological consequences of any accident previously evaluated are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the assumed accident performance of the main steam relief valves, nor any plant structure, system, or component previously evaluated. The proposed changes do not install any new equipment, and installed equipment is not being operated in a new or different manner. The proposed change in test methodology will ensure that the valves remain capable of performing their safety functions due to meeting the testing requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, with the exception of opening the valve following installation or maintenance for which a relief request has been submitted, proposing an acceptable alternative. No setpoints are being changed which would alter the dynamic response of plant equipment. Accordingly, no new failure modes are introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes will allow testing of the valve actuation electrical circuitry, including the solenoid, and mechanical actuation components, without causing the relief valve to open. The relief valves will be manually actuated prior to installation in the plant. Therefore, all modes of relief valve operation will be tested prior to entering the mode of operation requiring the valves to perform their safety functions. The proposed changes do not affect the valve setpoint or the operational criteria that directs the relief valves to be manually opened during plant transients. There are no changes proposed which alter the setpoints at which protective actions are initiated, and there is no change to the operability requirements for equipment assumed to operate for accident mitigation.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 12, 2003, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21,11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 1, 2003, as supplemented May 2, 2003, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 6th day of May, 2003.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–11841 Filed 5–12–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on May 28, 2003, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, May 28, 2003—8:30 a.m.–11 a.m.

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days

prior to the meeting to be advised of any potential changes in the agenda.

Dated: May 6, 2003.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 03–11838 Filed 5–12–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act, Meeting

DATE: Weeks of May 12, 19, 26, June 2, 9, 16, 2003.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 12, 2003

Wednesday, May 14, 2003

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1)

Thursday, May 15, 2003

9:30 a.m. Briefing on Results of Agency Action Review Meeting (Public Meeting) (Contact: Robert Pascarelli, 301–415–1245). Morning session.

12:30 p.m. Briefing on Results of Agency Action Review Meeting (Public Meeting) (Contact: Robert Pascarelli, 301–415–1245). Afternoon session.

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of May 19, 2003—Tentative

There are no meetings scheduled for the Week of May 19, 2003.

Week of May 26, 2003—Tentative

Wednesday, May 28, 2003

9:30 a.m. Meeting with Advisory Committee on the Medical Uses of Isotopes (ACMUI) (Public Meeting) (Contact: Angela Williamson, 301–415–5030)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

2:45 p.m. Discussion of Management Issues (Closed—Ex. 2)

Thursday, May 29, 2003

9:30 a.m. Briefing on Status of Revisions to the Regulatory Framework for Steam Generator Tube Integrity (Public Meeting) (Contact: Louise Lund, 301–415–3248)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

2 p.m. Briefing on Equal Employment Opportunity Program (Public Meeting) (Contact: Corenthis Kelley, 301–415–7380)

Week of June 2, 2003—Tentative

There are no meetings scheduled for the Week of June 2, 2003.

Week of June 9, 2003—Tentative

Wednesday, June 11, 2003

10:30 a.m. All Employees Meeting.

1:30 p.m. All Employees Meeting.

Week of June 16, 2003—Tentative

There are no meetings scheduled for the Week of June 16, 2003.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

ADDITIONAL INFORMATION: By a vote of 4–0 on April 28, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Nuclear Fuel Services, Inc. (Erwin, Tennessee)'' be held on April 29, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: May 8, 2003.

D.L. Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–11962 Filed 5–9–03; 10:07 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations; Biweekly Notice

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from, April 18, 2003, through May 1, 2003. The last biweekly notice was published on April 29, 2003 (68 FR 22744).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission

take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 12, 2003, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North,

Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: April 2, 2001, as supplemented by letters dated January 15, August 23, 2002, and March 28, 2003.

Description of amendment request: The proposed amendment would add operational restrictions when the inclined fuel transfer system (IFTS) blind flange is removed during Modes 1, ''Power Operation,'' 2, ''Startup,'' or 3, ''Hot Shutdown.'' The proposed changes would (1) include a limitation on the duration that the IFTS blind flange can be removed while primary containment integrity is required, (2) include a limitation on the duration that the IFTS blind flange can remain in the unbolted configuration, (3) specify the need to install the steam dryer pool to reactor cavity pool gate prior to opening the blind flange, and (4) provide the flexibility to remove the IFTS blind flange for other than maintenance and testing purposes only.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes allow operation of the IFTS while primary containment operability is required. The proposed changes result in a change to the primary containment boundary. A loss of primary containment integrity is not an accident initiator. The proposed changes do not involve any modifications to plant systems or design parameters or conditions that contribute to the initiation of any accidents previously evaluated. Therefore, the proposed changes do not increase the probability of any accident previously evaluated.

The proposed changes potentially affect the allowable leakage of the containment structure which is designed to mitigate the consequences of a loss-of-coolant accident (LOCA). The function of the primary containment is to maintain functional integrity during and following the peak transient pressures and temperatures that result from any LOCA. The primary containment is designed to limit fission product leakage following the design basis LOCA. Because the proposed changes do not alter the plant design, only the extent of the boundaries that provide primary containment isolation for the IFTS penetration, the proposed changes do not result in an increase in primary containment leakage. In addition, a time limit for IFTS blind flange removal of 40 days per cycle and a 12 hour limit for the unbolted configuration of the IFTS flange have been established as conservative measures to limit the associated risk to the containment boundary for all accident conditions. Once the blind flange is removed the IFTS transfer tube and its appurtenances become part of the primary containment boundary. As part of the primary containment boundary these subject components would be exposed to LOCA pressures. While these components have not been fabricated or installed to meet the acceptance criteria for a containment penetration, they have been built to withstand the rigors of a commercial nuclear application. This includes, but is not limited to, consideration of adequate seismic support, inertial forces imparted to the fuel, appropriate cooling and shielding for the spent nuclear fuel, integrity of the fluid system pressure boundary, and a safety analysis, including a failure modes and effects evaluation which assumes that credible events and credible combinations of events have been considered and mitigated against by either a fail safe design or redundancy. They are judged to be an acceptable barrier to prevent the uncontrolled release of post-accident fission products for the purposes of this amendment request.

Further, it has been shown that the largest potential leakage pathway, the IFTS transfer tube itself, would remain sealed by the depth of water required by the proposed [technical specification] TS change to be maintained in the fuel building fuel transfer pool. The transfer tube drain line constitutes the other possible leakage pathway, and will be required to be capable of being isolated via administrative control of the manual isolation valve in the drain line. Additionally, due to the physical relationships of the buildings and components involved, any leakage from either of these pathways is fully contained within the boundaries of the secondary containment and would be filtered by the Standby Gas Treatment System prior to release to the environment.

Leakage from the containment upper pool through the open IFTS transfer tube could potentially result in the excessive loss of water from the volume intended to provide post-LOCA makeup water to the suppression pool. The upper pool dump volume is maintained by requiring the installation of the steam dryer pool to reactor cavity pool gate with the seal inflated and a backup air supply provided. Maintaining the upper pool dump volume ensures proper suppression pool level can be achieved following a LOCA which provides for long-term steam condensation.

Based on the above, the proposed changes do not increase the consequences of an accident previously evaluated.

In summary, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve a change to the plant design or operation except for when IFTS is operated. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. No new accident modes or equipment failure modes are created by these changes. Extending the primary containment boundary to include portions of the IFTS has no influence on, nor does it contribute to the possibility of a new or different kind of accident or malfunction from those previously evaluated. Furthermore, operation of IFTS is unrelated to the operation of the reactor. There is no mishap in the process that can lead or contribute to the possibility of losing any coolant in the reactor or introducing the chance for positive or negative reactivity or other accidents different from and not bounded by those previously evaluated. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes only affect the extent of a portion of the primary containment boundary. The time that the IFTS is in the seismically indeterminate configuration with the flange unbolted will be limited to 12 hours per operating cycle. The time the IFTS blind flange will be removed will be limited to 40 days per operating cycle. These restrictions will limit the risk from the potential leakage through the primary containment boundary. Having IFTS in operation does not affect the reliability of equipment used for core cooling. In addition, precautions will be taken to administratively control the IFTS transfer tube drain path so that the proposed change will not increase the probability that an increase in leakage from the primary containment to the secondary containment could occur. Precautions will also be taken to ensure that the steam dryer pool to reactor cavity pool gate is installed prior to removing the IFTS flange when primary containment is required to be operable. Installation of this gate will ensure that an adequate containment upper pool dump volume is maintained to support post-LOCA suppression pool makeup water volume requirements.

The margin of safety that has the potential of being impacted by the proposed changes involve the offsite dose consequences of postulated accidents which are directly related to containment leakage rate. The containment isolation system is designed to limit leakage to L_a which is defined by the

[Clinton Power Station] CPS TS to be 0.65% of primary containment air weight per day at the design basis LOCA maximum peak containment pressure (*i.e.*, P_a). The limitation on containment leakage rate is designed to ensure that total leakage volume will not exceed the volume assumed in the accident analyses at P_a. The margin of safety for the offsite dose consequences of postulated accidents directly related to the containment leakage rate is maintained by meeting the L_a acceptance criteria during operation. The L_a value is not being modified by this proposed TS change. The IFTS will continue to provide an acceptable barrier to prevent unacceptable containment leakage during a LOCA, and therefore these changes will not create a situation causing the containment leakage rate acceptance criteria to be violated.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Edward J. Cullen, Deputy General Counsel Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: Anthony J. Mendiola.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: March 28, 2003.

Description of amendments request: The amendment would remove the post-accident hydrogen monitoring and control requirements from the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to the Technical Specifications has been evaluated against the standards in 10 CFR 50.92. The proposed amendment revises Technical Specification 3.3.10, Post-Accident Monitoring Instrumentation, and Technical Specification Table 3.3.10–1, Post-Accident Monitoring Instrumentation to delete references to the containment hydrogen analyzers. Additionally, the proposed amendment will delete Technical Specification 3.6.7, Hydrogen Recombiners. The proposed change has been determined to not involve a significant hazards consideration, in that operation of the facility in accordance with the proposed amendments:

1. Would not involve a significant increase in the probability or consequences of any accident previously evaluated.

Components used in the control of hydrogen in the Containment (consisting of hydrogen recombiners, a hydrogen vent, and hydrogen detectors) are not considered accident initiators. Therefore, this change does not increase the probability of an accident previously evaluated.

The purpose of the Hydrogen Control System is to ensure that hydrogen concentration is maintained below 4.0 volume percent so that Containment integrity is not challenged following a design basis loss-of-coolant accident (LOCA). The Calvert Cliffs Nuclear Power Plant Individual Plant Examination analyzed the probability of Containment failure under a variety of conditions. This proposed amendment does not alter the conclusions or assumptions of the Individual Plant Examination. The Calvert Cliffs Nuclear Power Plant Containment provides a safety margin against hydrogen burn following a design basis accident, such that the Containment will not fail even without hydrogen control equipment. Therefore, this change does not increase the consequences of accidents previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed change does not change the configuration of the plant beyond the Hydrogen Control System. Hydrogen generation following a design basis LOCA has been evaluated. Deletion of the Hydrogen Control System from the plant design basis and Technical Specifications does not alter the generation of hydrogen post-LOCA.

Therefore, this change does not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

3. Would not involve a significant reduction in [a] margin of safety.

The margin of safety in this case is the ability of Containment to withstand a pressure increase caused by the deflagration of hydrogen in the Containment. Industry experience and experimentation has shown that large, dry, well-ventilated Containments such as those at Calvert Cliffs can withstand pressures generated by ignition of hydrogen resulting from a LOCA. The Calvert Cliffs Nuclear Power Plant Containment provides a safety margin against hydrogen burn following a design basis accident, such that the Containment will not fail even without hydrogen control equipment.

Therefore, this change does not significantly reduce [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Richard J. Laufer.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: April 2, 2003.

Description of amendment request: The proposed amendment would change the spent fuel pool loading restrictions by redefining the regions, inserting Metamic® poison panels in a portion of the spent fuel pool, and increasing the minimum boron concentration.

Basis for no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The three fuel handling accidents described below can be postulated to increase reactivity. However, for these accident conditions, the double contingency principle of ANS [American Nuclear Society] N16.1–1975 is applied. This states that it is unnecessary to assume two unlikely, independent, concurrent events to ensure protection against a criticality accident. Thus, for accident conditions, the presence of soluble boron in the storage pool water can be assumed as a realistic initial condition since its absence would be a second unlikely event.

Three types of drop accidents have been considered: a vertical drop accident, a horizontal drop accident, and an inadvertent drop of an assembly between the outside periphery of the rack and the pool wall:

- A vertical drop directly upon a cell will cause damage to the racks in the active fuel region. The current 1600 ppm soluble boron concentration TS limit will ensure that K_{eff} does not exceed 0.95.
- A fuel assembly dropped on top of the rack horizontally will not deform the rack structure such that criticality assumptions are invalidated. The rack structure is such that an assembly positioned horizontally on top of the rack results in a separation distance from the upper end of the active fuel region of the stored assemblies. This distance is sufficient to preclude interaction between the dropped assembly and the stored fuel.
- An inadvertent drop of an assembly between the outside periphery of the rack and the pool wall is bounded by the worst case fuel misplacement accident condition.

The fuel assembly misplacement accident was considered for all storage configurations. An assembly with high reactivity is assumed

to be placed in a storage location which requires restricted storage based on initial U–235 loading, cooling time, and burnup. The presence of boron in the pool water assumed in the analysis has been shown to offset the worst case reactivity effect of a misplaced fuel assembly for any configuration. This boron requirement is less than the 1600 ppm currently required by the ANO–1 TS. Thus, a five percent subcriticality margin can be easily met for postulated accidents, since any reactivity increase will be much less than the negative worth of the dissolved boron.

For fuel storage applications, water is usually present. An ''optimum moderation'' accident is not a concern in spent fuel pool storage racks because the rack design prevents the preferential reduction of water density between the cells of a rack (*e.g.*, boiling between cells). An ''optimum moderation'' accident in the new fuel pit was previously evaluated and the conclusions of that evaluation have not changed as a result of the fuel enrichment.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes will define a portion of the current Region 2 as Region 3. The new region will contain Metamic® poison panel inserts and will allow unrestricted storage of fuel assemblies with various enrichments and burnup. To support the proposed change, new criticality analyses have been performed. The analyses resulted in new loading restrictions in Region 1 and Region 2. The presence of boron in the pool water assumed in the analysis is less than the 1600 ppm currently required by the ANO–1 TSs.

Thus, a five percent subcriticality margin can be easily met for postulated accidents, since any reactivity increase will be much less than the negative worth of the dissolved boron.

No new or different types of fuel assembly drop scenarios are created by the proposed change. During the installation of the Metamic® panels, the possible drop of a panel is bounded by the current fuel assembly drop analysis. No new or different fuel assembly misplacement accidents will be created. Administrative controls currently exist to assist in assuring fuel misplacement does not occur.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

With the presence of a nominal boron concentration, the SFP storage racks will be designed to assure that fuel assemblies of less than or equal to five weight percent U–235 enrichment when loaded in accordance with the proposed loading restrictions will be maintained within a subcritical array with a five percent subcritical margin (95% probability at the 95% confidence level). This has been verified by criticality analyses.

Credit for soluble boron in the SFP water is permitted under accident conditions. The proposed modification that will allow insertion of Metamic® poison panels does not result in the potential of any new misplacement scenarios. Criticality analyses have been performed to determine the required boron concentration that would ensure the maximum K_{eff} does not exceed 0.95. The ANO–1 TS for the minimum SFP boron concentration is greater than that required to ensure K_{eff} does not exceed 0.95. Therefore, the margin of safety currently defined by taking credit for soluble boron will be maintained.

The structural analysis of the spent fuel racks, along with the evaluation of the SFP structure, showed that the integrity of these structures will be maintained with the addition of the poison inserts. The structural requirements were shown to be satisfied, so the safety margins were maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: March 19, 2003.

Description of amendment request: The proposed amendment deletes requirements from the technical specifications (TS) and other elements of the licensing bases to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI Unit 2 (TMI–2). Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TS for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The changes are based on U.S. Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–413, ''Elimination of Requirements for a Post Accident Sampling System (PASS).'' The NRC staff issued a notice of opportunity for comment in the **Federal Register** on December 27, 2001 (66 FR 66949), on possible amendments concerning TSTF–413, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on March 20, 2002 (67 FR 13027). The licensee affirmed the applicability of the following NSHC determination in its application dated March 19, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of

Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post–TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radioisotopes within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: April 3, 2003.

Description of amendment request: The proposed changes will revise the Updated Final Safety Analysis Report to change the Reactor Vessel Material Surveillance Program. The change will reflect participation in the Boiling Water Reactor Vessel and Internals Project (BWRVIP) Integrated Surveillance Program (ISP).

Basis for proposed no significant hazards consideration determination: As required by Section 50.91(a) of Title 10 of the Code of Federal Regulations (10 CFR), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Changes in the fracture toughness properties of reactor vessel beltline materials, resulting from the neutron irradiation and the thermal environment, are monitored by a surveillance program in compliance with the requirements of 10CFR50, Appendix H. The proposed change implements an integrated surveillance program that has been evaluated by the NRC [U.S. Nuclear Regulatory Commission] staff as meeting the requirements of paragraph III.C of Appendix H to 10 CFR 50. The BWRVIP's ISP surveillance material selection process adequately ensures that materials in the program effectively provide meaningful information to monitor changes in fracture toughness for GGNS [Grand Gulf Nuclear Station, Unit 1, or Grand Gulf] RPV [Reactor Pressure Vessel] materials. In addition, the ISP program requires participants to acquire and evaluate relevant ISP test data from the program which may affect RPV integrity evaluations in a timely manner. One advantage of participating in the BWRVIP ISP is that surveillance test data applicable to the Grand Gulf RPV will be available sooner than under the current plant specific program.

The proposed change will not affect current RPV performance and will not cause the RPV or interfacing systems to be operated outside of their design or testing limits. The proposed change will not alter any assumptions previously made in evaluating the radiological consequences of accidents.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The change does not affect the design, function, reliability, or operation of any plant structure, system or component. The purpose of the reactor vessel material surveillance program is to monitor neutron embrittlement and thermal environment effects in order to predict the behavioral characteristics of materials of pressure retaining components of the reactor coolant pressure boundary and to ensure that reactor vessel fracture toughness and integrity requirements are not violated. The ISP is an approved alternate monitoring program that meets the regulatory requirements in Appendix H to 10 CFR 50. As an acceptable alternate monitoring program, the ISP cannot create a new failure mode involving the possibility of a new or different kind of accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from that previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The reactor material surveillance program required by 10 CFR 50, Appendix H, is designed to ensure that adequate margins of safety are provided for the reactor coolant pressure boundary during any condition of normal operation, including anticipated operational occurrences and hydrostatic tests. Monitoring changes in the fracture toughness of reactor vessel materials ensures that material changes due to radiation embrittlement are adequately considered for safe reactor operations. Paragraph lll.C of Appendix H to 10 CFR 50 delineates the regulatory requirements for an ISP. The BWRVIP ISP meets these requirements and has been approved by the NRC.

One of the uses of the material surveillance data obtained through the proposed ISP is to ensure the reactor coolant system P/T [Pressure/Temperature] limits established by the Technical Specifications are conservative. The material surveillance data obtained through the proposed Integrated Surveillance Program will provide new information that will be evaluated to ensure that the P/T limits are conservative. In addition, a neutron fluence calculation methodology which has been approved by the NRC staff and is consistent with the attributes identified in U.S. Nuclear Regulatory Commission Regulatory Guide 1.190, ''Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence,'' will be used for the determination of reactor vessel and surveillance capsule neutron fluence values to ensure quality of the method and compatibility between ISP results.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment request: February 14, 2003.

Description of amendment request: The proposed amendments would relax the Technical Specifications (TSs) surveillance requirement (SR) for reactor instrumentation line excess flow check valves (EFCVs). Currently, TSs require testing of each reactor instrumentation line EFCV on a 24-month frequency. The proposed TS SR would require that a representative sample of reactor instrumentation line EFCVs be tested every 24 months, such that each EFCV will be tested nominally once every 10 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current Technical Specification (TS) Surveillance Requirement (SR) frequency requires each reactor instrumentation line excess flow check valve (EFCV) to be tested every 24 months. The EFCVs at Dresden Nuclear Power Station (DNPS) and Quad Cities Nuclear Power Station (QCNPS) are designed to remain open during normal operation, but will close automatically in the event of an instrument line break downstream of the valve. The proposed change allows a reduced number of reactor instrumentation line EFCVs to be tested every 24 months. Industry operating experience demonstrates a high level of reliability for these EFCVs. A failure of an EFCV to isolate cannot initiate previously evaluated accidents (*i.e.*, a break in a reactor coolant pressure boundary (RCPB) instrument line outside containment). Therefore, there is no increase in the probability of an accident as a result of this proposed change.

The postulated break of an instrument line connected to the RCPB is discussed and evaluated in the Updated Final Safety Analysis Reports (UFSARs) for DNPS and QCNPS. The integrity and functional performance of the secondary containment and standby gas treatment system are not impaired by this event, and the calculated potential offsite exposures are below the guidelines of 10 CFR 100, ''Reactor Site Criteria.'' The NRC approved General Electric Nuclear Energy Licensing Topical Report, NEDO–32977–A, ''Excess Flow Check Valve Testing Relaxation,'' discusses through operating experience that there is a high degree of reliability with the EFCVs and that there are little radiological consequences resulting from an EFCV failure. The radiological consequences for an instrument line break do not credit the EFCVs for isolating the break. Therefore, the consequences of an instrument line break are not impacted by the proposed level of testing. Based on the above, the proposed TS change does not involve a significant increase in the consequences of an accident previously evaluated.

In summary, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change allows a reduced number of reactor instrumentation line EFCVs to be tested every 24 months. No other changes in requirements are being proposed. Industry operating experience as documented in NEDO–32977–A, provides supporting evidence that the reduced testing will not affect the high reliability of these valves. The potential failure of an EFCV to isolate as a result of the proposed reduction in testing is bounded by the evaluation of an instrument line break described in the UFSARs for DNPS and QCNPS. The proposed changes do not physically alter the plant and will not alter the operation of structures, systems, and components as described in the UFSARs. Therefore, a new or different kind of accident from any accident previously evaluated will not be created.

3. The proposed TS change does not involve a significant reduction in a margin of safety.

The consequences of an unisolable rupture of a RCPB instrument line outside containment has been previously evaluated in the UFSARs for DNPS and QCNPS. That evaluation assumed a continuous discharge of reactor coolant for the duration of the detection and cooldown sequence (*i.e.*, no credit was assumed for isolating the break by the associated EFCV in the ruptured instrument line). Since a continuous discharge was assumed in this evaluation, any potential failure of the associated EFCV to isolate postulated by the reduced testing frequency is bounded. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: March 31, 2003.

Description of amendment request: The proposed amendments would revise Appendix A, Technical Specifications (TS), of Facility Operating License Nos. NPF–11 and NPF–18. Specifically, the proposed change will increase the upper limit associated with TS Table 3.3.5.1–1, ''Emergency Core Cooling System Instrumentation,'' Function 3.e, ''HPCS System Flow Rate—Low (Bypass),'' Allowable Value from less than or equal to (≤) 1704 gallons per minute (gpm) to ≤ 2194 gpm. The proposed change increases the Allowable Value band to account for instrumentation deadband, as-left setting tolerances and setpoint drift, and resolves historical difficulties during calibration. The current Allowable Value was initially provided in the LaSalle County Station TS during conversion to Improved Technical Specifications (ITS) format. This value was based on vendor supplied data and believed at the time to adequately account for these parameters. The upper Allowable Value limit is being increased based on historical performance data for the High Pressure Core Spray (HPCS) system flow switches. The increase in the allowed bypass flow rate does not affect the capability of the HPCS system in performing its intended safety function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in probability or consequences of an accident previously evaluated.

The proposed change to LaSalle County Station Technical Specifications (TS) Table 3.3.5.1–1, ''Emergency Core Cooling System

Instrumentation,'' Function 3.e, ''HPCS System Flow Rate—Low (Bypass),'' request an increase in the Allowable Value from less than or equal to ≤ 1704 gpm to ≤ 2194 gpm. The operation of High Pressure Core Spray (HPCS) System Flow Rate—Low (Bypass) function is not a precursor to any accident previously evaluated. Thus, the proposed change does not have any effect on the probability of an accident previously evaluated.

The LaSalle County Station Emergency Core Cooling Systems (ECCS) are designed, in conjunction with the primary and secondary containments, to limit the release of radioactive material to the environment following a loss of coolant accident (LOCA). The ECCS uses two independent methods, flooding and spraying, to cool the reactor core following a LOCA. The HPCS is one of the core spray systems. The evaluation of the proposed change concluded that the HPCS will operate as assumed in accidents previously evaluated. Thus, the radiological consequences of any accident previously evaluated are not increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect the control parameters governing unit operation and does not introduce any new equipment, modes of system operation or failure mechanisms. Calculations have been performed which evaluated the performance of the HPCS system without the closure of the minimum flow bypass valve. The calculations determined that the Unit 1 and Unit 2 HPCS pump capacity with the minimum flow bypass valve open will support HPCS System injection flow into the reactor pressure vessel (RPV) over the full range of RPV pressures above the requirements for HPCS in the Loss of Coolant Accident (LOCA) analyses.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The HPCS System Flow Rate—Low (Bypass) Function is one of the inputs to the logic that controls the opening and closing of the minimum flow bypass valve. The current Allowable Values for this function are greater than or equal to (≥)1380 gpm and ≤1704 gpm. The lower Allowable Value limit (*i.e.,* 1380 gpm) ensures that the minimum flow bypass valve opens when pump flow is too low for adequate cooling of the pump while the pump is operating. This limit is not affected by the proposed change.

The upper Allowable Value limit (*i.e.,* 1704 gpm) ensures that the minimum flow bypass valve automatically closes to allow maximum flow to the RPV spray sparger. The proposed change increases the value to ≤ 2194 gpm. LaSalle County Station has evaluated the effect of this change and concluded the following:

• The proposed change to increase the upper Allowable Value limit from ≤ 1704 gpm to ≤ 2194 gpm will provide further assurance that the minimum flow bypass valve remains full open until the HPCS pump flow to the RPV spray sparger is sufficient to prevent overheating of the pump, and

• The upper Allowable Value ensures that the HPCS minimum flow bypass valve closes to allow maximum flow to the RPV spray sparger. The proposed change will delay the initiation of valve closure from ≤ 1704 gpm to ≤ 2194 gpm. The calculations determined that the Unit 1 and Unit 2 HPCS pump capacity with the minimum flow bypass valve open will support HPCS system injection flow into the RPV over the full range of RPV pressures above the requirements for HPCS in the Loss of Coolant Accident (LOCA) analysis up to the maximum assumed injection flow of 5400 gpm. The margin to the flow requirements of the LOCA analysis varies from approximately 200 gpm at very low RPV pressures to greater than 1000 gpm at higher RPV pressures. Since the HPCS system injection flow requirement to the RPV spray sparger assumed in the LOCA analysis is met with the minimum flow bypass valve open, the LOCA analysis results are not adversely affected by increasing the value of flow when the minimum flow bypass valve starts to close. Although the calculations show that closure of the HPCS minimum flow bypass valve is not necessary to meet the HPCS system injection flow requirements assumed in the LOCA analyses, LaSalle County Station has chosen to retain the upper Allowable Value in the TS to provide additional margin to the assumed injection flow of the analyses.

Thus, increasing the TS upper Allowable Value limit for the HPCS System Flow Rate—Low (Bypass) Function from ≤ 1704 gpm to ≤ 2194 gpm will not affect the capability of the HPCS system in performing its intended safety function.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based upon the above, Exelon Generation Company concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: Anthony J. Mendiola.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 19, 2003.

Description of amendment request: The proposed amendment would delete requirements from the Technical Specifications (TSs) and other elements of the licensing bases related to the post-accident sampling system (PASS) at the Monticello Nuclear Generating Plant. Licensees were generally required to implement PASS upgrades as described in NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The proposed changes are based on NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–413, ''Elimination of Requirements for a Post Accident Sampling System (PASS).'' The NRC staff issued a notice of opportunity for comment in the **Federal Register** on December 27, 2001 (66 FR 66949), on possible amendments concerning TSTF–413. The notice included a model safety evaluation and model no significant hazards consideration determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on March 20, 2002 (67 FR 13027). The licensee affirmed the applicability of the following no significant hazards consideration determination in its application dated March 19, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radioisotopes within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan.

Nuclear Management Company, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: March 27, 2003.

Description of amendment request: The proposed amendment would approve a selective scope application of an alternative source term (AST) for fuel handling accidents (FHAs). Specifically, the amendments would revise Technical Specification (TS) 3.9.3, ''Containment Penetrations,'' to (1) change the Applicability statement to ''During movement of recently irradiated fuel assemblies within containment,'' and (2) modify the Required Action for Condition A to eliminate the requirement to suspend core alterations and add the requirement to suspend movement of recently irradiated fuel assemblies within containment if one or more containment penetrations are not in the required status.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments does not result in a significant increase in the probability or consequences of any accident previously evaluated.

Selective implementation of the Alternative Source Term (AST) and those plant systems affected by implementing the proposed changes to the TS are not accident initiators and cannot increase the probability of an accident. The AST does not adversely affect the design or operation of the facility in a manner that would create an increase in the probability of an accident. Rather, the AST is a methodology used to evaluate the dose consequences of a postulated accident.

The fuel handling accident analysis has demonstrated that the dose consequences of a postulated fuel handling accident remain within the limits provided sufficient decay has occurred prior to the movement of irradiated fuel without taking credit for certain mitigation features such as ventilation filter systems and containment closure. Irradiated fuel that has not undergone the required decay period of 65 hours is defined as recently irradiated fuel and the currently approved TS requirements are applicable when this recently irradiated fuel is being handled.

This amendment does not alter the methodology or equipment used directly in fuel handling operations. Neither ventilation filter system (*i.e.*, the containment purge or drumming area vent stack) is used to actually handle fuel. Neither of these systems is an accident initiator. Similarly, neither the equipment hatch, personnel air locks, any other containment penetrations, nor any component thereof is an accident initiator. No other accident initiator is affected by the proposed changes.

The TEDE [total effective dose equivalent] doses from the analysis supporting this amendment request have been compared to equivalent TEDE doses estimated with the guidelines of RG [Regulatory Guide] 1.183 [''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors''] Footnote 7. The new values are shown to be comparable to the results of the previous analysis.

Based on the aforementioned reasons, the proposed amendment does not involve a significant increase in the probability or consequences of a FHA as previously analyzed.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments does not result in a new or different kind of accident from any accident previously evaluated.

The evaluation of the effects of the proposed changes indicates that all design

standards and applicable safety criteria limits are met. The proposed amendment would increase the time during which the equipment hatch and personnel air locks could be open during core alterations and movement of irradiated fuel. The proposed amendment does not involve changes in the operations of these containment penetrations. Having these penetrations open does not create the possibility of a new accident.

Therefore, operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments does not result in a significant reduction in a margin of safety.

The assumptions and input used in the analysis are conservative as noted below. The design basis FHA has been defined to identify conservative conditions. The source term and radioactivity releases have been calculated pursuant to RG 1.183, Appendix B and with conservative assumptions concerning prior reactor operations. The control room atmospheric dispersion factor has been calculated with conservative assumptions associated with the release. The conservative assumptions and input noted above ensure that the radiation doses cited in the amendment request are the upper bound to radiological consequences of a FHA either in containment or in the spent fuel pool. The analysis shows that there is a significant margin between the TEDE radiation doses calculated for the postulated FHA using the AST and acceptance limits of 10 CFR 50.67 and RG 1.183. The proposed changes will not degrade the plant protective boundaries, will not cause a release of fission products to the public, and will not degrade the performance of any Structures, Systems, and Components important to safety. Therefore, there is no significant reduction in the margin of safety as a result of the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan.

Southern Nuclear Operating Company, Inc, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of amendment request: February 11, 2003.

Description of amendment request: The proposed amendments would allow a 40-month inspection interval for Farley, Unit 2 after the completion of the first post-replacement in-service inspection, rather than the completion of two consecutive inspections resulting in a classification of C–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed one-time change revises the steam generator (SG) inspection interval requirements in TS [technical specification] 5.5.9.3, ''Inspection Frequencies,'' for the FNP [Farley Nuclear Plant] Unit 2 Spring 2004 refueling outage, to allow a 40[-]month inspection frequency after one inspection, rather than after two consecutive inspections with results that are within the C–1 category. C–1 category is defined as ''less than 5% of the total tubes inspected are degraded tubes and none of the inspected tubes are defective.''

The proposed one-time extension of the FNP Unit 2 SG tube inservice inspection interval does not involve changing any structure, system, or component, or affect reactor operations. It is not an initiator of an accident and does not change any existing safety analysis previously analyzed in the FNP's Final Safety Analysis Report (FSAR). As such, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

Since the proposed change does not alter the plant design, there is no direct increase in SG leakage. Industry experience indicates that the probability of increased SG tube degradation would not go undetected. Additionally, steps described below will further minimize the risk associated with this extension. For example, the scope of inspections performed during the last FNP Unit 2 refueling outage (*i.e.*, the first refueling outage following SG replacement) exceeded the TS requirements for the first two refueling outages after SG replacement. That is, more tubes were inspected than were required by TS. Currently, FNP Unit 2 does not have a SG damage mechanism, and will meet the current industry examination guidelines without performing SG inspections during the next refueling outage. Additionally, as part of the FNP SG Program, both a Condition Monitoring Assessment and an Operational Assessment are performed after each inspection and compared to the Nuclear Energy Institute (NEI) 97–06, ''Steam Generator Program Guidelines,'' performance criteria. The results of the Condition Monitoring Assessment demonstrated that all performance criteria were met during the FNP Unit 2 Fall 2002 refueling outage, and the results of the Operational Assessment show that all performance criteria will be met over the proposed operating period. Considering these actions, along with the improved SG design and reliability of Westinghouse replacement SGs, extending the SG tube inspection frequency does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change revises the SG inspection frequency requirements in TS 5.5.9.3.a for the FNP Unit 2 Spring 2004 refueling outage, to allow a 40[-]month inspection interval after one inspection, rather than after two consecutive inspections, with inspection results within the C–1 category.

The proposed change will not alter any plant design basis or postulated accident resulting from potential SG tube degradation. The scope of inspections performed during the last FNP Unit 2 refueling outage (*i.e.*, the first refueling outage following SG replacement) significantly exceeded the TS requirements for the scope of the first two refueling outages after SG replacement.

Primary-to-secondary leakage that may be experienced during all plant conditions is expected to remain within current accident analysis assumptions. The proposed change does not affect the design of the SGs, the method of SG operation, or reactor coolant chemistry controls. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. The proposed change involves a one-time extension to the SG tube inservice inspection frequency and therefore will not give rise to new failure modes. In addition, the proposed change does not impact any other plant systems or components.

3. Does the proposed change involve a significant reduction in a margin of safety?

The SG tubes are an integral part of the Reactor Coolant System (RCS) pressure boundary that are relied upon to maintain the RCS pressure and inventory. The SG tubes isolate the radioactive fission products in the reactor coolant from the secondary system. The safety function of the SGs is maintained by ensuring the integrity of the SG tubes. In addition, the SG tubes comprise the heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system.

SG tube integrity is a function of the design, environment, and current physical condition. Extending the SG tube inservice inspection frequency by one operating cycle will not alter the function or design of the SGs. SG inspections conducted during the first refueling outage following SG replacement demonstrated that the SGs do not have an active damage mechanism, and the scope of those inspections significantly exceeded the scope required by the TS. These inspection results were comparable to similar inspection results for second generation alloy 690 models of replacement SGs installed at other plants, and subsequent inspections at those plants yielded results that support this extension request. The improved design of the replacement SGs also provides reasonable assurance that significant tube degradation is not likely to occur over the proposed operating period.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Section Chief: John A. Nakoski.

Southern Nuclear Operating Company, Inc, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of amendment request: March 31, 2003.

Description of amendment request: The proposed amendments would modify Surveillance Requirement (SR) 3.4.11.1, for Farley, Unit 2 only by the addition of the following note that states, ''Not required to be performed for Unit 2 for the remainder of operating cycle 16 for Q2B31MOV800B.'' In addition, a temporary Technical Specification SR 3.4.11.4 is added to provide compensatory action for this block valve while SR 3.4.11.1 is suspended. Further, this SR requires that power to the Farley, Unit 2 Power Operated Relief Valve Q2B31MOV800B be checked at least every 24 hours for the remainder of operating cycle 16.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Surveillance Requirement (SR) 3.4.11.1 suspends the requirement to cycle test the Unit Two pressurizer power operated relief valve (PORV) block valve Q2B31MOV8000B for the remainder of operating cycle 16. This change will eliminate the remaining scheduled cycle tests for the PORV block valve during operating cycle 16. SR 3.4.11.4 is added to provide compensatory measures for verifying power available to the block valve at least every 24 hours. At the end of cycle 16, the proposed changes will no longer be in effect. Suspension of the cycle tests for the PORV block valve Q2B31MOV8000B may result in a small decrease in assurance that the block valve would cycle if required to isolate a stuck open PORV. However, experience with these valves has shown them to be very reliable and suspension of the remaining tests will not appreciably reduce reliability of the valve. There is no relationship between packing leakage on the PORV block valve and a postulated stuck open PORV. The proposed compensatory measure of verifying block valve power available on a 24 hour basis adds additional assurance that the block valve will close if demanded. Therefore, the probability of a previously evaluated accident remains acceptable is not significantly increased.

The proposed changes do not affect the consequences of a previously analyzed accident since the magnitude and duration of analyzed events are not impacted by this change. The dose consequences of the proposed change are bounded by LOCA [loss-of-coolant accident] analyses. Therefore, the consequences of a previously evaluated accident are unchanged.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes involve no change to the physical plant. They allow for suspension of the PORV block valve Q2B31MOV8000B cycle tests for a limited time and provide for compensatory action to verify power to the PORV block valve. This valve provides an isolation function for a postulated stuck open or leaking pressurizer PORV. This condition is an analyzed event since it is bounded by the FNP [Farley Nuclear Plant] LOCA analyses. In addition to the isolation function, the block valve is required to remain open to allow the associated PORV to function automatically to control reactor coolant system (RCS) pressure. These changes do not impact the open function of the block valve since the normal position is open.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The physical plant is unaffected by these changes. The proposed changes do not impact accident offsite dose, containment pressure or temperature, emergency core cooling system (ECCS) or reactor protection system (RPS) settings or any other parameter that could affect a margin of safety. The elimination of cycle testing of the PORV block valve Q2B31MOV8000B for the remainder of the Unit Two operating cycle and the addition of the proposed compensatory action that enhances assurance of valve operation are somewhat offsetting.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Section Chief: John A. Nakoski.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: February 26, 2003.

Description of amendment request: The proposed amendments would revise Technical Specifications Section 5.5.17, ''Containment Leakage Rate Testing Program,'' to reflect a one time deferral of the Type-A Containment Integrated Leak Rate Test (ILRT). The 10-year interval between ILRTs is to be extended to 15 years from the previous ILRTs that were completed in March 2002 for Unit 1 and March 1995 for Unit 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to Technical Specifications 5.5.17, ''Containment Leakage Rate Testing Program,'' involves a one-time extension to the current interval for Type A containment leak testing. The current test interval of ten (10) years would be extended on a one-time basis to no longer than fifteen (15) years from the last Type A test. The proposed Technical Specifications change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The reactor containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the reactor containment itself and the testing requirements invoked to periodically demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

The proposed change involves only the extension of the interval between Type A containment leakage tests. Type B and C containment leakage tests will continue to be performed at the frequency currently required by plant Technical Specifications. Industry experience has shown, as documented in NUREG–1493 [''Performance-Based Containment Leak-Test Program''], that Type B and C containment leakage tests have identified a very large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is very small. VEGP [Vogtle Electric Generating Plant] test history supports this conclusion. NUREG–1493 concluded, in part, that reducing the frequency of Type A containment leak tests to once per twenty (20) years leads to an imperceptible increase in risk. The integrity of the reactor containment is subject to two types of failure mechanism which can be categorized as (1) activity based and (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as design change control and procedural

requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the reactor containment itself combined with the containment inspections performed in accordance with ASME Section XI, the Maintenance Rule, and the containment coatings program serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by Type A testing.

2. The proposed Technical Specifications change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision to Technical Specifications involves a one-time extension to the current interval for Type A containment leak testing. The reactor containment and the testing requirements invoked to periodically demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident and do not involve the prevention or identification of any precursors of an accident. The proposed Technical Specifications change does not involve a physical change to the plant or the manner in which the plant is operated or controlled.

3. The proposed Technical Specifications change does not involve a significant reduction in a margin of safety.

The proposed revision to Technical Specifications involves a one-time extension to the current interval for Type A containment leak testing. The proposed Technical Specifications change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The specific requirements and conditions of the Containment Leakage Rate Testing Program, as defined in Technical Specifications, exist to ensure that the degree of reactor containment structural integrity and leak tightness that is considered in the plant safety analysis is maintained. The overall containment leakage rate limit specified by Technical Specifications is maintained. The proposed change involves only the extension of the interval between Type A containment leakage tests. Type B and C containment leakage tests will continue to be performed at the frequency currently required by plant Technical Specifications.

VEGP and industry experience strongly support the conclusion that Type B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI, the Maintenance Rule, and the containment coatings program serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by Type A testing.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: John A. Nakoski.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendments: April 8, 2003 as supplemented April 22, 2003.

Brief description of amendments: To revise, for one time only, a portion of Surveillance Requirement 3.5.2.3 of the Technical Specifications for the emergency core cooling system (ECCS). The revision will extend, until the refueling outage in the fall of 2003, the verification that the ECCS safety injection hot leg injection lines are full of water.

Date of publication of individual notice in the ***Federal Register:*** April 16, 2003 (68 FR 18712).

Expiration date of individual notice: May 1, 2003

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: September 26, 2002.

Brief description of amendment: The amendment revises Technical Specification 3.9.1, ''Refueling Equipment Interlocks,'' to allow in-vessel fuel movement to continue if the refueling interlocks become inoperable. Specifically, the amendment adds Required Action A.2.1 to immediately block control rod withdrawal and Required Action A.2.2 to perform a verification that all of the control rods are fully inserted.

Date of issuance: April 28, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 154.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 26, 2002 (67 FR 70764).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 2003.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: December 4, 2002.

Brief description of amendments: The amendments revised the Technical Specification 3.7.6 to require a minimum combined inventory of 155,000 gallons and remove the Condensate Storage Tank as a source of the combined inventory.

Date of Issuance: April 30, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 330, 330 & 331.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 31, 2003 (68 FR 2801).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 2003.

No significant hazards consideration comments received: No

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 6, 2002.

Brief description of amendment: The amendment increased the surveillance interval of the local power range monitor calibrations from 1000 megawatt-days/ton to 200 megawatt-days/ton.

Date of issuance: May 1, 2003.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 277.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 4, 2003 (68 FR 5674).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 2003.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 16, 2002, as supplemented on March 26, April 16, and April 19, 2003.

Brief description of amendment: The amendment modified Technical Specification (TS) 3/4.10.A, ''Refueling Interlocks,'' and TS 3/4.10.D, ''Multiple Control Rod Removal,'' to provide an alternative required action if the refueling interlocks became inoperable during fuel movements in the reactor vessel. The amendment allowed fuel movements to continue in the reactor vessel should the refueling equipment interlocks become inoperable.

Date of issuance: April 21, 2003.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 199.

Facility Operating License No. DPR–35: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** December 10, 2002 (67 FR 75872).

The March 26, April 16, and April 19, 2003, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 2003.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 23, 2003, as supplemented February 24, and April 17, 2003.

Brief description of amendment: This amendment modifies the Pilgrim Nuclear Power Station Technical Specification (TS) requirements for the Emergency Core Cooling System (ECCS) during shutdown conditions. The amendment changes the Core Spray and Low Pressure Coolant Injection System's TS requirements to be applicable during the Run, Startup, and Hot Shutdown Modes. The amendment also modifies the High Drywell Pressure Instrumentation TSs to require the instrumentation to be Operable during the Run, Startup and Hot Shutdown Modes. Unnecessary TS requirements are removed based on the plant's operating Mode. Other changes are administrative in nature.

Date of issuance: April 22, 2003.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 200.

Facility Operating License No. DPR–35: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** March 18, 2003 (68 FR 12952).

The supplements dated February 24, and April 17, 2003, provided additional information that clarified the application, and did not expand the scope of the application or change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 2003.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 18, 2002.

Brief description of amendment: The amendment revises several Technical Specifications Limiting Conditions for Operations and Administrative sections to correct or clarify certain requirements and information.

Date of issuance: April 23, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 157.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 10, 2002 (67 FR 75871).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237, Dresden Nuclear Power Station, Unit 2, Grundy County, Illinois

Date of application for amendment: January 31, 2003, as supplemented March 7, 2003.

Brief description of amendment: The amendment revises the safety limit

minimum critical power ratio for Unit 2 for two loop operation and for single loop operation.

Date of issuance: April 22, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 199.

Facility Operating License No. DPR–19: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 4, 2003 (68 FR 10279). The supplement dated March 7, 2003, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: April 10, 2002, as supplemented March 10, 2003.

Brief description of amendments: The amendments revised the Technical Specifications to relocate emergency diesel generator maintenance inspection requirements from Section 4.8.1.1.2.e.1 to the Technical Requirements Manual.

Date of issuance: April 18, 2003.

Effective date: As of the date of issuance and shall include the relocation of the emergency diesel generator maintenance requirements of Technical Specification 4.8.1.1.2.e.1 to the Technical Requirements Manual within 30 days.

Amendment Nos.: 165 and 128.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 28, 2002 (67 FR 36926). The supplement dated March 10, 2003, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: November 27, 2002.

Brief description of amendments: These amendments deleted TS 6.8.4.c, ''Post-accident Sampling,'' and thereby eliminated the requirements to have and maintain the post accident sampling system for Limerick Generating Station, Units 1 and 2. The amendments also addressed related changes to TS 6.8.4.a, ''Primary Coolant Sources Outside Containment.''

Date of issuance: April 25, 2003.

Effective date: As of date of issuance and shall be implemented within 180 days.

Amendment Nos.: 166 and 129.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 21, 2003 (68 FR 2802).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 2003.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: June 4, 2002.

Brief description of amendment: This amendment revises the pressure temperature limits for 22- and 32-effective full power years for Perry Nuclear Power Plant. The June 4, 2002, application also contained a request for exemption from applying Appendix G of the 1995 American Society of Mechanical Engineers Boiler and Pressure Vessel Code and approval for using Code Case N–640, which permits the use of the plain strain fracture toughness (KIc) curve instead of the crack arrest fracture toughness (KIa) curve for reactor pressure vessel materials in determining the P–T limits.

Date of issuance: April 29, 2003.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 127.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 10, 2002 (67 FR 75878).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 2003.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: October 15, 2002, as supplemented February 28, 2003.

Description of amendment request: The amendment modifies the reactor coolant system flow rate from 363,000 gallons per minute (gpm) to 355,000 gpm in Technical Specifications (TSs) Table 3.3–2 and in a footnote for Table 2.2–1.

Date of Issuance: April 18, 2003.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 131.

Facility Operating License No. NPF–16: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** November 12, 2002 (67 FR 68737).

The February 28, 2003, supplement did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2003.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: July 23, 2002.

Brief description of amendments: The amendments revise certain 18-month surveillance requirements by eliminating the condition that testing be conducted ''during shutdown,'' or ''during the COLD SHUTDOWN or REFUELING MODE'' (*i.e.,* shutdown conditions).

Date of issuance: April 22, 2003.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 275 and 257.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 17, 2002 (67 FR 58647).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 22, 2003.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: January 14, 2003.

Brief description of amendments: The amendments modify Technical Specification (TS) 3.7.5.1 to add an exception to Limiting Condition for Operation 3.0.4 for the control room emergency ventilation system (CREVS). This exception allows movement of irradiated fuel assemblies to begin while one of the two CREVS pressurization trains is inoperable, provided the appropriate TS action requirements are implemented. The amendments are consistent with the standard TSs for Westinghouse plants (NUREG 1431, Revision 2, ''Standard Technical Specifications, Westinghouse Plants,'' dated April 30, 2001).

Date of issuance: April 25, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 276 and 258.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 4, 2003 (68 FR 10280).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 2003.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: October 26, 2001, as supplemented by letters dated June 7 and November 22, 2002.

Brief description of amendment: The amendment revised Section 6.0, ''Administrative Controls,'' of the Technical Specifications (TSs) to clarify and relocate existing requirements, make wording improvements, and make the TSs consistent with the Unit 2 TSs. The revised Section 6.0 is consistent with the ''Standard Technical Specifications for General Electric plants, BWR [Boiling Water Reactor]/4'' (NUREG–1433, Revision 2).

Date of issuance: April 23, 2003.

Effective date: April 23, 2003, to be implemented within 90 days of issuance.

Amendment No.: 181.

Facility Operating License No. DPR–63: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 928).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 2003.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: July 26, 2002, as supplemented February 27, March 14, March 19, March 21 (2 letters), and April 3, 2003.

Brief description of amendment: The amendment revises technical specifications for use of Westinghouse 422 VANTAGE + nuclear fuel with PERFORMANCE + features.

Date of issuance: April 4, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 167.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 3, 2002 (67 FR 56322).

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 2003.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 19, 2002, as supplemented February 28, 2003.

Brief description of amendment: The amendment relocates TS Surveillance Requirement (SR) 4.6.B.2, ''Reactor Vessel Temperature and Pressure,'' and the associated TS Bases to Section 4.2 of the Updated Safety Analysis Report. It also implements the Boiling Water Reactor Vessel and Internals Project reactor pressure vessel integrated surveillance program at Monticello and demonstrates compliance with the requirements of Title 10 of the Code of Federal Regulations, Part 50, Appendix H, ''Reactor Vessel Material Surveillance Program Requirements.''

Date of issuance: April 22, 2003

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 135.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 29, 2002 (67 FR 66012).

The supplement of February 28, 2003, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 2003.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 8, 2002, and its supplements dated December 3, 2002, and March 4, 2003.

Brief description of amendment: The amendment modifies Technical Specification 2.3.a, ''Emergency Core Cooling System,'' to extend *the* allowed outage time for a single low pressure safety injection pump from the existing 24 hours to 7 days. In addition, the word ''pump'' has been replaced with the word ''train.''

Date of issuance: April 29, 2003

Effective date: April 29, 2003, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 217.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 12, 2002 (67 FR 68740).

The supplemental letters dated December 3, 2002, and March 4, 2003, provided additional information that clarified the application, did not expand the scope of the application as originally noticed or revise the proposed technical specification changes and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 2003.

No significant hazards consideration comments received: No.

Saxton Nuclear Experimental Corporation (SNEC) and GPU Nuclear, Inc., Docket No. 50–146 Saxton Nuclear Experimental Facility (SNEF), Bedford County, Pennsylvania

Date of application for amendment: February 2, 2000, as supplemented on

June 23, August 11, September 18 and December 4, 2000; January 30, February 14, March 15 and 19, June 20, July 2 and September 4, 2001; and January 11 and 24, February 4, May 22 and 28, July 11, August 20, September 17, 23, 24, and 26, October 10, and December 16, 2002.

Brief description of amendment: The amendment revises Amended Facility License No. DPR–4 for the SNEF to annotate approval of the SNEF License Termination Plan.

Date of issuance: March 28, 2003.

Effective date: Date of issuance to be implemented no later than 30 days from the date of issuance.

Amendment No.: 18.

Amended Facility License No. DPR–4: Amendment added a new license condition to require the licensees to implement and maintain in effect all provisions of the approved SNEF License Termination Plan.

Date of initial notice in ***Federal Register:*** November 29, 2000.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 2003.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendments request: November 5, 2001, as supplemented by letters dated October 23, 2002, and January 15, 2003.

Brief description of amendments: The proposed amendments convert the current Technical Specification (TS) Section 6.0 of the STP, Units 1 and 2, TS to the Improved Technical Specifications based on NUREG–1431, ''Standard Technical Specification for Westinghouse Plants.''

Date of issuance: April 24, 2003.

Effective date: As of its date of issuance and shall be implemented within 6 months from the date of issuance.

Amendment Nos.: Unit 1–151; Unit 2–139.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5335).

The October 23, 2002, and January 15, 2003, supplemental letters provided clarifying information that was within the scope of the original **Federal Register** notice (67 FR 5335) and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 24, 2003.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendment: February 28, 2003.

Brief description of amendment: The amendment approves the use of an alternate methodology using a through-bolted connection frame to restore the steam generator (SG) compartment roof after replacement of the SGs, and a revision of the Updated Safety Analysis Report (UFSAR) to reflect the approval of the methodology.

Date of issuance: April 25, 2003.

Effective date: As of the date of issuance, to be incorporated into the UFSAR at the time of its next update.

Amendment No.: 184.

Facility Operating License No. DPR–77: Amendment revises the UFSAR.

Date of initial notice in ***Federal Register:*** March 14, 2003 (68 FR 12382).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 2003.

No significant hazards consideration comments received: No

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant (SQN), Unit 1, Hamilton County, Tennessee

Date of application for amendment: February 28, 2003.

Description of amendment: The amendment approves a revision of the SQN Updated Final Safety Analysis (UFSAR) to include a change to the methodology for connecting reinforcing steel bars during restoration of the Unit 1 concrete shield building dome as part of the steam generator replacement project. This modification to the shield building concrete dome is necessary to support removal of the original steam generators and installation of the replacement steam generators.

Date of issuance: April 24, 2003.

Effective date: As of the date of issuance to be incorporated into the UFSAR at the time of its next update.

Amendment No.: 283.

Facility Operating License No. DPR–77: Amendment revises the Operating License.

Date of initial notice in **Federal Register**: March 17, 2003 (68 FR 12718).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 2003.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: April 8, 2003, as supplemented April 22, 2003.

Brief description of amendment: The amendment revises, for one time only, a portion of Surveillance Requirement (SR) 3.5.2.3 of the Watts Bar Technical Specifications for the emergency core cooling system (ECCS). The revision extends, until the refueling outage in the fall of 2003, the verification that the ECCS safety injection hot leg injection lines are full of water. SR 3.5.2.3 currently requires a verification frequency of 31 days.

Date of issuance: May 1, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 43.

Facility Operating License No. NPF–90: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. (68 FR 18712 dated April 16, 2001). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by May 16, 2003, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. The April 22, 2003, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original request.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and final no significant hazards consideration determination are contained in a Safety Evaluation dated May 1, 2003.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: October 3, 2002.

Brief description of amendment: The amendment revises Limiting Condition for Operation 3.1.8, ''Physics Tests Exceptions—Mode 2,'' to reduce the required number of channels from four

to three channels for certain functions in Table 3.3.1–1, ''Reactor Trip System Instrumentation.''

Date of issuance: April 21, 2003.

Effective date: April 21, 2003, and shall be implemented within 60 days of the date of issuance.

Amendment No.: 154.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 26, 2002 (67 FR 70771).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 2003.

No significant hazards consideration comments received. No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: October 1, 2002.

Brief description of amendment: The amendment revises Limiting Condition for Operation 3.1.8, ''Physics Tests Exceptions—Mode 2,'' to reduce the required number of channels from four to three channels for certain functions in Table 3.3.1–1, ''Reactor Trip System Instrumentation.''

Date of issuance: April 21, 2003.

Effective date: April 21, 2003, and shall be implemented within 90 days of the date of issuance.

Amendment No.: 151.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 12, 2002 (67 FR 68746).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 2003.

No significant hazards consideration comments received: No.

Yankee Atomic Electric Co., Docket No. 50–29, Yankee Nuclear Power Station (YNPS) Franklin County, Massachusetts

Brief description of amendment: The amendment revises the YNPS License and Technical Specifications to delete operational and administrative requirements that would no longer be required once the spent nuclear fuel has been transferred from the spent fuel pool to the Independent Spent Fuel Storage Installation.

Date of issuance: April 17, 2003.

Effective date: April 17, 2003.

Amendment No.: 157.

Facility Operating License No. DPR–3. Amendment revises the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** February 18, 2003 (68 FR 7823).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 2003.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 5th day of May 2003.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–11697 Filed 5–12–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification Improvement To Eliminate Post Accident Sampling Requirements for Babcock and Wilcox Reactors Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model application relating to the elimination of post accident sampling requirements for Babcock and Wilcox (B&W) Reactors. The purpose of this model is to permit the NRC to efficiently process amendments that propose to remove requirements for Post Accident Sampling Systems (PASS) from Technical Specifications (TS). Licensees of nuclear power reactors to which the model applies may request amendments utilizing the model application.

DATES: The NRC staff issued a **Federal Register** Notice (68 FR 10052, March 3, 2003) which provided a model safety evaluation (SE) and a model no significant hazards consideration (NSHC) determination relating to elimination of requirements for PASS for B&W Reactors. The NRC staff hereby announces that the model SE and NSHC determination may be referenced in plant-specific applications to eliminate requirements for post accident sampling. The staff has posted a model application on the NRC web site to assist licensees in using the consolidated line item improvement process (CLIIP) to eliminate PASS-related TS. The NRC staff can most efficiently consider applications based upon the model application if the application is submitted within a year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Robert Dennig, Mail Stop: O–12H4, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1156.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the elimination of requirements for PASS and related administrative controls in TS for B&W Reactors. This proposed change was proposed for incorporation into the STS by the B&W Owners Group (BWOG) participants in the Technical Specification Task Force (TSTF) and is designated TSTF–442. TSTF–442 is supported by the NRC staff's SE dated November 14, 2002 (ADAMS Accession Number ML0225601190), for the BWOG topical report BAW–2387, ''Justification for the Elimination of the Post Accident Sampling System (PASS) from the Licensing Basis of Babcock and Wilcox Plants,'' which was submitted to the NRC on June 25, 2001. The BWOG request followed the staff's approval of similar requests for elimination of PASS requirements from the Combustion Engineering Owners Group (CEOG), the

Westinghouse Owners Group (WOG), and the Boiling Water Reactor Owners Group (BWROG). TSTF–442 can be viewed on the NRC Web site: (*www.nrc.gov/reactors/operating/licensing/techspecs/changes-issued-for-adoption.html*).

Applicability

This proposed change to remove requirements for PASS from TS (and other elements of the licensing bases) is applicable to B&W Reactors.

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by TSTF–442 using the CLIIP to address the following plant-specific verifications and regulatory commitments. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested verifications and regulatory commitments. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review. In making the requested regulatory commitments, each licensee should address: (1) That the subject capability exists (or will be developed) and will be maintained; (2) where the capability or procedure will be described (*e.g.*, severe accident management guidelines, emergency operating procedures, emergency plan implementing procedures); and (3) a schedule for implementation. The amendment request need not provide details about designs or procedures.

Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain):

a. A capability for classifying fuel damage events at the Alert level threshold (typically this is 300 μCi/ml dose equivalent iodine). This capability may use a normal sampling system or correlations of letdown line dose rates to coolant concentrations;

b. Contingency plans for obtaining and analyzing highly radioactive samples from the reactor coolant system, containment sump, and containment atmosphere; and

c. Offsite capability to monitor radioactive iodines.

Public Notices

In a notice in the **Federal Register** dated March 3, 2003 (68 FR 10052), the staff requested comment on the use of the CLIIP to process requests to delete post-accident sampling requirements from B&W Reactors. The staff had previously issued notices of availability on the use of the CLIIP to process requests to delete post-accident sampling requirements from plants with Westinghouse and Combustion Engineering designs (65 FR 65018, October 31, 2000) and BWR designs (67 FR 13027, March 20, 2002). The notice of availability for Westinghouse and Combustion Engineering plants followed the staff's disposition of comments received in response to a notice requesting comment (65 FR 49271, August 11, 2000). The notice of availability for BWR plants followed the staff's disposition of comments received in response to a notice requesting comment (66 FR 66949, December 27, 2001). Each request to eliminate PASS requirements by licensees for Westinghouse, CE, and BWR plants using the CLIIP has also included notices prior to issuance of the subject license amendments and upon issuance.

TSTF–442, as well as the NRC staff's safety evaluation and model application, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, (the Electronic Reading Room).

The staff did not receive comments following the notice soliciting comments about modifying the TS requirements regarding post accident sampling for B&W Reactors.

As described in the model application prepared by the staff, licensees may reference in their plant-specific applications to eliminate PASS-related TS the SE and NSHC determination previously published in the **Federal Register** (68 FR 10052, March 3, 2003).

Dated at Rockville, Maryland, this 6th day of May 2003.

For the Nuclear Regulatory Commission.

Robert L. Dennig,

Section Chief, Technical Specifications Section, Operating Reactor Improvements Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

Enclosure for Inclusion on Technical Specification Web Page

The following example of an application was prepared by the NRC staff to facilitate the use of the consolidated line item improvement process (CLIIP). The model provides the expected level of detail and content for an application to eliminate pass requirements using CLIIP. Licensees remain responsible for ensuring that their actual application fulfills their Administrative requirements as well as NRC regulations.

U.S. Nuclear Regulatory Commission,
Document Control Desk, Washington, DC 20555

Subject:
Plant Name
Docket No. 50–
Application for Technical Specification Improvement to Eliminate Requirements for Post Accident Sampling System for Babcock and Wilcox Reactors Using the Consolidated Line Item Improvement Process

Gentlemen: In accordance with the provisions of 10 CFR 50.90, [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would delete Technical Specification (TS) 5.5.3, ''Post Accident Sampling,'' and thereby eliminate the requirements to have and maintain the post accident sampling system at [PLANT]. The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–442, ''Elimination of Requirements for a Post Accident Sampling System (PASS).'' The availability of this technical specification improvement was announced in the **Federal Register** on [DATE OF NOTICE OF AVAILABILITY] as part of the consolidated line item improvement process (CLIIP).

Attachment 1 provides a description of the proposed change, the requested confirmation of applicability, and plant-specific verifications. Attachment 2 provides the existing TS pages marked-up to show the proposed change. Attachment 3 provides revised clean technical specification pages. Attachment 4 provides a summary of the regulatory commitments made in this submittal. [IF APPLICABLE: Attachment 5 provides the existing TS Bases pages marked-up to show the proposed change (for information only).]

[LICENSEE] requests approval of the proposed License Amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct. [Note that request may be notarized in lieu of using this oath or affirmation statement].

If you should have any questions regarding this submittal, please contact [ ].

Sincerely,

Name,
Title

Attachments:
1. Description and Assessment
2. Proposed Technical Specification Changes
3. Revised Technical Specification Pages
4. Regulatory Commitments
5. Proposed Technical Specification Bases Changes (if applicable)

cc:

NRR Project Manager
Regional Office
Resident Inspector
State Contact

Attachment 1—Description and Assessment

1.0 DESCRIPTION

The proposed License amendment deletes the program requirements of TS (5.5.3), ''Post Accident Sampling.''

The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–442. The availability of this technical specification improvement was announced in the **Federal Register** on [DATE] as part of the consolidated line item improvement process (CLIIP).

2.0 ASSESSMENT

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation published on March 3, 2003 (68 FR 10052) as part of the CLIIP. This verification included a review of the NRC staff's evaluation as well as the supporting information provided to support TSTF–442 (*i.e.*, BAW -2387, ''Justification for the Elimination of the Post Accident Sampling System (PASS) from the Licensing Basis of Babcock and Wilcox-Designed Plants,'' which was submitted to the NRC on June 25, 2001, and the associated NRC safety evaluation dated November 14, 2002). [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] Technical Specifications.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the technical specification changes described in TSTF–442 or the NRC staff's model safety evaluation published on March 3, 2003.

Plant-specific submittals may also include one or more of the following:

(1) Requirements for installing and maintaining PASS were included in a confirmatory order for [PLANT] issued on [DATE]. This amendment request includes superseding the requirements imposed by that confirmatory order.

(2) As described in the model safety evaluation published on March 3, 2003, the elimination of the TS and other regulatory requirements for PASS result in additional changes to the TS. These changes are [DESCRIBE ADDITIONAL CHANGES]. The changes are necessary due to the removal of the TS section on PASS. The changes do not revise technical requirements beyond that addressed by the NRC staff in the model safety evaluation published on March 3, 2003. [Note that these changes could involve the deletion or modification of license conditions in addition to other TS.]

(3) The elimination of PASS results in changes to the TS Bases. The revised Bases are provided in Attachment 5. [LICENSEE] will formally address the changes to the Bases in accordance with [the Bases Control Program or administrative procedure for revising Bases] and will provide the actual revised Bases pages in a future submittal.

3.0 REGULATORY ANALYSIS

3.1 No Significant Hazards Determination

[LICENSEE] has reviewed the proposed no significant hazards consideration determination published on March 3, 2003 (68 FR 10052) as part of the CLIIP. [LICENSEE] has concluded that the proposed determination presented in the notice is applicable to [PLANT] and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

As discussed in the model SE published in **Federal Register** on March 3, 2003 for this technical specification improvement, plant-specific verifications were performed as follows:

1. [LICENSEE] [verified that it has or is making a regulatory commitment to develop] contingency plans for obtaining and analyzing highly radioactive samples from the RCS, containment sump, and containment atmosphere. The contingency plans will be contained in [specified document or program] and implementation [is complete, will be completed with the implementation of the License amendment, or will be completed within X days (<6 months) after the implementation of the License amendment]. Establishment and maintenance of contingency plans is considered a regulatory commitment.

2. The capability for classifying fuel damage events at the Alert level threshold [has been or will be] established for [PLANT] at radioactivity levels of [300 mCi/cc dose equivalent iodine]. This capability will be described in [specified document or program] and implementation [is complete, will be completed with the implementation of the License amendment, or will be completed within X days (<6 months) after the implementation of the License amendment]. The capability for classifying fuel damage events is considered a regulatory commitment.

3. [LICENSEE] [verified that it has or is making a regulatory commitment to develop] an ability to assess radioactive iodines released to offsite environs. The capability for monitoring iodines will be maintained within the [specified document or program]. Implementation of this commitment [is complete, will be completed with the implementation of the License amendment, or will be completed within X days (<6 months) after the implementation of the License amendment]. The capability to monitor radioactive iodines is considered a regulatory commitment.

4.0 ENVIRONMENTAL EVALUATION

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation published on March 3, 2003 (68 FR 10052) as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

Attachment 2—Proposed Technical Specification Changes (Mark-Up)

Attachment 3—Proposed Technical Specification Pages

Attachment 4—List of Regulatory Commitments

The following table identifies those actions committed to by [LICENSE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments. Please direct questions regarding these commitments to [ ].

Regulatory commitments	Due date/event
[LICENSEE] [verified that it has or is making a regulatory commitment to develop] contingency plans for obtaining and analyzing highly radioactive samples from the RCS, containment sump, and containment atmosphere. The contingency plans will be contained in [specified document or program] and implementation [is complete, will be completed with the implementation of the License amendment, or will be completed within x days (< 6 months) after the implementation of the License amendment]. Establishment and maintenance of contingency plans is considered a regulatory commitment.	[Complete, implemented with amendment OR within X days of implementation of amendment].
The capability for classifying fuel damage events at the Alert level threshold [has been or will be] established for [PLANT] at radioactivity levels of [300 mCi/cc dose equivalent iodine]. This capability will be described in [specified document or program] and implementation [is complete, will be completed with the implementation of the License amendment, or will be completed within x days (< 6 months) after the implementation of the License amendment]. The capability for classifying fuel damage events is considered a regulatory commitment.	[Complete, implemented with amendment OR within X days of implementation of amendment].
[LICENSEE] [verified that it has or is making a regulatory commitment to develop] an ability to assess radioactive iodines released to offsite environs. The capability for monitoring iodines will be maintained within the [specified document or program]. Implementation of this commitment [is complete, will be completed with the implementation of the License amendment, or will be completed within x days (< 6 months) after the implementation of the License amendment]. The capability to monitor radioactive iodines is considered a regulatory commitment.	[Complete, implemented with amendment OR within X days of implementation of amendment].

Attachment 5—Possible Changes to TS Bases Pages

[FR Doc. 03–11840 Filed 5–12–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From:

Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a–25 SEC File No. 270–482, OMB Control No. 3235–0504.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–25 (17 CFR 240.17a–25) requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, the rule also requires broker-dealers to submit, and keep current, contact person information for electronic blue sheets (''EBS'') requests. The Commission uses the information for enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 14,000 electronic blue sheet requests per year. Accordingly, the annual aggregate hour burden for electronic and manual response firms is estimated to be 1,820 hours and 525 hours, respectively. In addition, the Commission estimates that it will request 1,400 broker-dealers to supply the contact information identified in Rule 17a–25(c) and estimates the total aggregate burden hours to be 350. Thus, the annual aggregate burden for all respondents to the collection of information requirements of Rule 17a–25 is estimated at 2,695 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 2, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11882 Filed 5–12–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47800; File No. SR–CHX–2003–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Execution of Resting Limit Orders Following a Primary Market Block Trade-Through

May 6, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and rule 19b–4 thereunder,[2] notice hereby is given that on March 24, 2003, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Article XX, rule 37 of the CHX rules, which governs, among other things, execution of resting limit orders following a block trade-through in the primary market. The text of the proposed rule change is available at the Commission or the CHX.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Article XX, rule 37 of the CHX rules, which governs, among other things, execution of resting limit orders following a block trade-through in the primary market. Under existing Exchange rules relating to listed securities, whenever a block trade [3] in the primary market trades through a CHX specialist's quote, the specialist must execute all limit orders in the book (that are priced at the block price or better) at the block price.[4]

The CHX believes that this requirement was likely instituted as a marketing tool to attract new customers when trading occurred in much larger variations and trading on regional exchanges was somewhat less common. Today, trading on regional exchanges is not a new phenomenon. Moreover, the CHX represents that because the vast majority of block trades are not identified as such when they occur, it is impossible for a specialist to know, at the time of a particular block-size trade-through, whether or not limit orders must be filled at the block price. As a result, the specialist often fills the orders at the limit price and adjusts them to the better block price when it is confirmed that a block trade occurred. The Exchange represents that the practice of manually correcting execution prices is a large inconvenience to some key CHX order-sending firms, which must send out two trade confirmations to each customer '' one that is generated as soon as the trade occurs and a second to reflect the corrected execution price.

The delays associated with confirming the appropriate execution price for orders subject to this requirement are not appropriate in the fast-paced, automated markets that exist today. Therefore, the CHX is proposing to eliminate the requirement that a CHX specialist fill resting limit orders at the block price following a block trade trade-through in the primary market.[5] Recognizing that many specialists may wish to continue filling such limit orders at the block price as a customer service accommodation, however, the proposed rule change would permit a CHX specialist to continue to have the option to engage an existing functionality of the Exchange's MAX automatic execution system that automatically executes designated limit orders at the block price when a block size trade-through occurs in the primary market.[6]

2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[7] In particular, the proposed rule is consistent with section 6(b)(5) of the Act [8] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No.

[3] A block trade is a trade that involves (a) a trade of ''block size'' (10,000 shares or more, or with a market value of $200,000 or more); and (b) either (i) a cross of block size (where a single firm represents all of one side of the transaction and all or a portion of the other side) or (ii) any other transaction where a single firm represents an order of block size on only one side of the transaction, so long as the transaction does not occur at the Exchange's current bid or offer. At the time a transaction occurs on another market, the CHX can determine whether it is a *block size trade;* the CHX does not yet know, however, which firms were on which sides of the transaction and therefore cannot then determine whether it meets the other requirements of a *block trade.*

[4] *See* CHX Article XX, rule 37(a)(3).

[5] If, however, a specialist is representing an order in his or her quote that is traded through by a block trade from another market, and the specialist receives satisfaction from the other market, the specialist must give the higher price to the customer order.

[6] This functionality was approved by the Commission and implemented in early January of 2003. *See* Securities Exchange Act Release No. 47068 (December 20, 2002), 67 FR 79671 (December 30, 2002).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

SR–CHX–2003–08 and should be submitted by June 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11881 Filed 5–12–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47805; File No. SR–Phlx–2003–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Payment for Order Flow Fees for the Top 120 Options

May 6, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 25, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the Phlx has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to establish its options payment for order flow fees imposed on the transactions of Phlx Registered Options Traders (''ROTs'') for the period from May through July 2003 for the top 120 options based on volume statistics from January, February, and March 2003,[3] as set forth on the ROT Equity Option Payment for Order Flow Charges Schedule.[4] The rate levels have remained unchanged: The top-ranked option is charged a fee of $1.00 per contract, the next 49 options are charged a fee of $0.50 per contract, and the fee for the remaining options in the top 120 is set at $0.00.

The Phlx's ROT Equity Option Payment for Order Flow Charges Schedule is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Phlx recently filed with the Commission to reinstate its payment for order flow program.[5] Pursuant to the Phlx's current program, Phlx ROTs are assessed a payment for order flow fee on the top 120 most actively traded equity options, on a per-contract, per-options issue basis, as set forth on Phlx's ROT Equity Option Payment for Order Flow Charges Schedule, subject to certain exceptions.[6]

1. Purpose

The purpose of the proposed rule change is to establish the payment for order flow fees for trades settling on or after May 1, 2003 through July 31, 2003 for the applicable top 120 options. The Phlx will file with the Commission a proposed rule change to address changes to the Phlx's fee schedule for subsequent time periods. No other changes to the Phlx's payment for order flow program are being made at this time.

2. Statutory Basis

The Phlx believes that its proposal to amend its schedule of dues, fees and charges is consistent with section 6(b) of the Act[7] and in particular furthers the objectives of section 6(b)(4) of the Act[8] in that it is an equitable allocation of reasonable fees among Phlx members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Phlx neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder.[10] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

[9] 9 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx's payment for order flow fee is assessed on ROTs on the top 120 most actively traded equity options in terms of the total number of contracts that are traded nationally based on volume statistics provided by the Options Clearing Corporation. The measuring periods for the top 120 options are calculated every three months. *See* Securities Exchange Act Release No. 47424 (February 28, 2003), 68 FR 11168 (March 7, 2003) (SR–Phlx–2003–04). This cycle is scheduled to continue every three months, with a separate proposed rule change filed for each three-month trading period.

[4] To avoid confusion, the ROT Equity Option Payment for Order Flow Charges Schedule reflects only those options being charged more than $0.00

[5] *See* Securities Exchange Act Release No. 47090 (December 23, 2002), 68 FR 141 (January 2, 2003) (SR–Phlx–2002–75).

[6] The payment for order flow fee does not apply to transactions between: (1) a ROT and a specialist; (2) a ROT and a ROT; (3) a ROT and a firm; and (4) a ROT and a broker-dealer. Indeed, because the primary focus of the program is to attract order flow from customers, the payment for order flow fee is not imposed on the above-specified transactions. Also, the payment for order flow fee does not apply to index or foreign currency options.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2003–34 and should be submitted by June 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11879 Filed 5–12–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47799; File No. SR–Phlx–2003–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Retroactively Apply Its Broker-Dealer Transaction Fee for Equity Option Transactions for the Period From April 1, 2003 to April 10, 2003

May 6, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act or Exchange Act),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its schedule of dues, fees and charges to apply the following reduced broker-dealer transaction fee for block equity option transactions retroactively to equity options transactions settling from April 1, 2003, to April 10, 2003: Broker/Dealer[3] (non-AUTO–X)

Up to 2,000 contracts	$.35 per contract
Between 2,001 and 3,000 contracts.	$.25 per contract (for all contracts)
Residual above 3,000 contracts.	$.20 per contract above 3,000 contracts (with the first 3,000 contracts charged $.25 per contract)

This fee is applied per transaction (not per month).[4] This revised fee became effective for trades settling on or after April 11, 2003. The Exchange now proposes to implement this fee on transactions that have settled from April 1, 2003, to April 10, 2003.[5] All other equity option transaction charges will remain unchanged. The text of the proposed rule change is available upon request from the Office of the Secretary, the Commission, and the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 11, 2003, the Exchange filed a proposed rule change that amended its schedule of dues, fees and charges to adopt decreases in its broker-dealer transaction fee for equity option transactions.[6] This fee change became effective for transactions settling on or after April 11, 2003. This current proposal seeks to apply theses decreases to the broker-dealer transaction fee to transactions that settled from April 1, 2003, to April 10, 2003.[7] The purpose of the proposed rule change is to provide equivalent fee decreases to those broker-dealers whose transactions would have qualified for discounted broker-dealer transaction fees during the above-referenced ten-day period.

This proposal seeks to apply the current transaction levels set forth above per to applicable broker-dealer transactions for trades settling from April 1, 2003, to April 10, 2003. For example, under the proposal (i) a transaction of 1,700 option contracts will be charged $0.35 per contract, (ii) a transaction of 2,500 contracts will be charged $0.25 per contract for all contracts, and (iii) a transaction of 3,500 contracts will be charged $0.25 for each of the first 3,000 contracts and $0.20 for each of the remaining 500 contracts.[8]

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members. The Exchange believes the proposal is reasonable and equitable because it applies the same fee decreases for broker-dealers executing equity options transactions on the Exchange settling from April 1, 2003, to April 10, 2003, as those applicable to broker-dealers whose transactions settle on or after April 11, 2003.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or

[11] 17 CFR 200.03–(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This charge applies to members for transactions, received from other than the floor of the Exchange, for any account (i) in which the holder of beneficial interest is a member or non-member broker-dealer or (ii) in which the holder of beneficial interest is a person associated with or employed by a member or non-member broker-dealer. This includes transactions for the account of an ROT entered from off-floor.

[4] Member organizations may need to file a form with the Exchange to identify eligible block trades.

[5] This fee will continue to be eligible for the monthly credit of up to $1,000 to be applied against certain fees, dues and charges and other amounts owed to the Exchange by certain members. *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 28, 2001)(SR–Phlx–2002–32).

[6] *See* Securities Exchange Act Release No. 47715 (April 22, 2003), 68 FR 22446 (April 28, 2003)(SR–Phlx–2003–26).

[7] The Phlx stated that from April 1, 2003, to April 10, 2003, there were approximately seven transactions that would have qualified for the lower ''block'' broker-dealer transaction fee.

[8] Of course, the contra-side to a transaction may also be subject to transaction and other charges.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

(ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–2003–28 and should be submitted by June 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11880 Filed 5–12–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3496]

State of Kansas

As a result of the President's major disaster declaration on May 6, 2003, I find that Cherokee, Crawford, Labette, Leavenworth, Miami, Neosho and Wyandotte Counties in the State of Kansas constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 7, 2003 and for economic injury until the close of business on February 6, 2004 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Allen, Anderson, Atchison, Bourbon, Douglas, Franklin, Jefferson, Johnson, Linn, Montgomery, Wilson and Woodson in the State of Kansas; Barton, Bates, Cass, Clay, Jackson, Jasper, Newton, Platte and Vernon counties in the State of Missouri; and Craig, Nowata and Ottawa counties in the State of Oklahoma.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906
Businesses and non-profit organizations without credit available elsewhere	2.953
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.953

The number assigned to this disaster for physical damage is 349612. For economic injury the number is 9V1500 for Kansas; 9V1600 for Missouri; and 9V1700 for Oklahoma.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 6, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–11835 Filed 5–12–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3497]

State of Missouri

As a result of the President's major disaster declaration on May 6, 2003, I find that Barry, Barton, Bates, Benton, Buchanan, Camden, Cass, Cedar, Christian, Clay, Clinton, Cooper, Dade, Dallas, Douglas, Greene, Henry, Hickory, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, McDonald, Miller, Morgan, Newton, Pettis, Platte, Polk, Pulaski, Ray, Saline, St. Clair, Stone, Taney, Vernon and Webster Counties in the State of Missouri constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 7, 2003 and for economic injury until the close of business on February 6, 2004 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Andrew, Boone, Caldwell, Carroll, Chariton, Cole, De Kalb, Howard, Howell, Maries, Moniteau, Osage, Ozark, Phelps, Texas and Wright in the State of Missouri; Benton, Boone, Carroll and Marion counties in the State of Arkansas; Atchison, Bourbon, Cherokee, Crawford, Doniphan, Johnson, Leavenworth, Linn, Miami and Wyandotte counties in the State of Kansas; and Delaware and Ottawa counties in the State of Oklahoma.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906
Businesses and non-profit organizations without credit available elsewhere	2.953
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.953

The number assigned to this disaster for physical damage is 349712. For economic injury the number is 9V1800 for Missouri; 9V1900 for Arkansas; 9V2000 for Kansas; and 9V2100 for Oklahoma.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

[11] 17 CFR 200.03–(a)(12).

Dated: May 6, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–11836 Filed 5–12–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4364]

Office of Visa Services; 60-Day Notice of Proposed Information Collection: Form DS–1648, Application for A, G, or NATO Visa; OMB Control Number 1405–0100

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Extension of currently approved collection.

Originating Office: Bureau of Consular Affairs, Department of State (CA/VO).

Title of Information Collection: Application for A, G, or NATO Visa.

Frequency: Once per respondent.

Form Number: DS–1648.

Respondents: Aliens applying for A, G, or NATO visa.

Estimated Number of Respondents: 20,000 per year.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 10,000 hours per year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information regarding the collection listed in this notice should be directed to Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St. NW., RM L–703, Washington, DC 20520, who may be reached at 202–663–1163.

Dated: April 29, 2003.

Janice L. Jacobs,

Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 03–11905 Filed 5–12–03; 8:45 am]

BILLING CODE 4710–06–U

DEPARTMENT OF STATE

[Public Notice 4363]

Foreign Terrorists and Terrorist Organizations; Designation: Real IRA

In the Matter of the Redesignation of the ''Real IRA'' also Known as the ''Real Irish Republican Army'' also Known as ''RIRA'' also Known as the ''32 County Sovereignty Committee'' also Known as the ''32 County Sovereignty Movement'' also Known as the ''Real Oglaigh na hEireann'' also Known as the ''Irish Republican Prisoners Welfare Association'' as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State has concluded that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA''), exist with respect to the Real IRA.

The ''Real IRA'' is also known as the ''Real Irish Republican Army,'' also known as ''RIRA,'' also known as the ''32 County Sovereignty Committee,'' also known as the ''32 County Sovereignty Movement,'' also known as the ''Real Oglaigh na hEireann,'' also known as the ''Irish Republican Prisoners Welfare Association.'' Therefore, the Secretary of State hereby redesignates, effective May 16, 2003, that organization as a foreign terrorist organization pursuant to section 219(a) of the INA.

Dated: May 5, 2003.

Cofer Black,

Coordinator for Counterterrorism, Department of State.

[FR Doc. 03–11902 Filed 5–12–03; 8:45 am]

BILLING CODE 4710–10–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending May 2, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2003–15088.

Date Filed: May 1, 2003.

Parties: Members of the International Air Transport Association.

Subject:

PTC2 EUR 0517 dated May 2, 2003,
Mail Vote 298—Resolution 010m,
TC2 Within Europe Special Passenger Amending Resolution from Tunisia to Europe,
Intended effective date: May 10, 2003.

Dorothy Y. Beard,

Chief, Docket Operations & Media Management, Federal Register Liaison.

[FR Doc. 03–11775 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 2, 2003

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2003–15095.

Date Filed: May 1, 2003.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 22, 2003.

Description: Application of Sun D'or International Airlines Ltd., pursuant to 49 U.S.C. 41302 *et seq.,* and subpart B, requesting a foreign air carrier permit to engage in charter foreign air transportation of persons, property, and mail between a point or points in Israel,

on the one hand, and Orlando, FL or Las Vegas, NV, on the other.

Dorothy Y. Beard,

Chief, Docket Operations & Media Management, Federal Register Liaison.

[FR Doc. 03–11776 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2003–15104]

Proposed Advisory Circular for Onboard Recording of Data Communications in Crash Survivable Memory

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Cancellation of notice of availability and request for public comment.

SUMMARY: This notice announcing the availability of and request for comments on a revised proposed Advisory Circular (AC) for onboard recording of voice and data link messages in crash-survivable memory is cancelled.

DATES: The cancellation of this request for comments is effective on May 6, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Frye, Avionics Systems Branch, AIR–130, Aircraft Certification Service, Aircraft Engineering Division, AIR–130, 470 L'Enfant Plaza SW., Suite 4102, Washington, DC 20025; Telephone (202) 385–4630; Fax (202) 385–4651. E-mail comments to: *Gregory.E.Frye@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The primary purposes of an advisory circular (AC) are: (1) Provide an acceptable means by which an Aircraft Certification Office project engineer can effectively evaluate an applicant's compliance to a specific Federal Aviation Regulation (FAR); and (2) provide an acceptable means that an applicant may comply with a specific FAR. In the case of this proposed AC, the regulatory requirements (FAR) to equip an aircraft with a system for an onboard recording to voice and data communications in a crash survivable memory, has not completed the rulemaking process. Therefore, the offering of the proposed advisory circular to the public for comments is premature.

Issued in Washington, DC, on May 6, 2003.

Susan J.M. Cabler,

Deputy Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–11794 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular, AC 23–XX, Acceptance Guidance on Material Procurement and Process Specifications for Polymer Matrix Composite Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular AC 23–XX, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular that provides information and guidance on material and process specifications, or other documents, used to ensure sufficient control of composite prepreg materials in normal, utility, acrobatic, and commuter category airplanes. This notice is necessary to give all interested persons an opportunity to present their views on the proposed advisory circular.

DATES: Comments must be received on or before June 12, 2003.

ADDRESSES: Send all comments on the proposed advisory circular to: Federal Aviation Administration, Attention: Lester Cheng, Regulations and Policy, ACE–111, 901 Locust, Kansas City, Missouri 64106. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lester Cheng, telephone: 316–946–4111; e-mail: *lester.cheng@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed advisory circular by submitting such written data, views, or arguments as they may desire. Commenters should identify advisory circular 23–XX and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Small Airplane Directorate before issuing the final advisory circular. The proposed advisory circular can be found and downloaded from the Internet at *http://www.faa.gov/certification/aircraft/sadProposed.htm* or a paper copy of the proposed advisory circular may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT.**

Discussion

The proposed advisory circular has been developed with the help of industry to ensure adequate composite material control and to promote standardization of material and process specifications. It presents procedural and technical information for the user from the regulatory perspective.

Issued in Kansas City, Missouri, on April 29, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–11919 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–27]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

FOR FURTHER INFORMATION CONTACT: Denise Emrick (202) 267–5174, Sandy Buchanan-Sumter (202) 267–7271, or Timothy R. Adams (202) 267–8033, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 7, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2003–15027.

Petitioner: Liberty Aviation Service, LLC.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Liberty Aviation Service, LLC, to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 4/29/2003, Exemption No. 8035*

Docket No.: FAA–2001–9232.
Petitioner: Blatti Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Blatti Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 4/28/2003, Exemption No. 6957B*

Docket No.: FAA–2001–9141.
Petitioner: Business Aviation Courier.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Business Aviation Courier to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 4/28/2003, Exemption No. 7488A*

Docket No.: FAA–2001–8861.
Petitioner: MCIWORLDCOM Management Company, Inc.
Section of 14 CFR Affected: 14 CFR 91.611.
Description of Relief Sought/ Disposition: To permit MCIWORLDCOM Management Company, Inc. (MCI), to conduct ferry flights with one engine inoperative in MCI's Falcon Trijet airplane, Model No. 900, without obtaining a special flight permit for each flight. *Grant, 4/29/2003, Exemption No. 5332F*

Docket No.: FAA–2002–11840.
Petitioner: Davis Aerospace Technical High School.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit Davis Aerospace Technical High School and Back Pilots of America to conduct local sightseeing flights at the Detroit City Airport, for its annual open house on May 18, 2003, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 4/29/2003, Exemption No. 8036*

Docket No.: FAA–2003–14795.
Petitioner: Eagle Helicopter, Inc., d.b.a. Kachina Aviation.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Kachina Aviation to operate two Bell 212 helicopters (registration Nos. N215KA and N73HJ) under part 135 without each helicopter being equipped with an approved digital flight data recorder. *Grant, 4/28/2003, Exemption No. 8037*

Docket No.: FAA–2000–8222.
Petitioner: Mesa Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit Mesa Airlines, Inc., to substitute a qualified and authorized check airman for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 4/29/2003, Exemption No. 7495A*

Docket No.: FAA–2001–9350.
Petitioner: TWA Airlines LLC, d.b.a. American Airlines.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit TWA Airlines, LLC, doing business as American Airlines, to substitute a qualified and authorized check airman for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and landing. *Grant, 4/29/2003, Exemption No. 7479A*

Docket No.: FAA–2000–7991.
Petitioner: American Trans Air, Inc., d.b.a. ATA.
Section of 14 CFR Affected: 14 CFR § 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit ATA to substitute a qualified and authorized check airman for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and landing. *Grant, 4/29/2003, Exemption No. 7491A*

Docket No.: FAA–20001–9512.
Petitioner: Peninsula Airways, Inc., d.b.a. PenAir.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit PenAir to operate its two Fairchild Aerospace SA227–DC Metro 23 aircraft without being equipped with an approved digital flight data recorder. *Grant, 4/28/2003, Exemption No. 7603A*

Docket No.: FAA–2003–14497.
Petitioner: Red Baron Flyers, Inc.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit Red Baron Flyers, Inc., to conduct local sightseeing flights at the Houston County Airport, Caledonia, Minnesota, on June 29, 2003, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 4/28/2003, Exemption No. 8034*

Docket No.: FAA–2002–13930.
Petitioner: Pinnacle Airlines, Inc., d.b.a. Northwest Airlink.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit Northwest Airlink to substitute a qualified and authorized check airman for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 4/29/2003, Exemption No. 7504A*

Docket No.: FAA–2002–11992.
Petitioner: Kent State University Flight Operations.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit Kent State University Flight Operations to conduct local sightseeing flights at the Kent State University Airport, Stow, Ohio, on September 6 and 7, 2003, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 4/28/2003, Exemption No. 8033*

Docket No.: FAA–2001–9513.
Petitioner: Big Sky Transportation Co., d.b.a. Big Sky Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit Big Sky Airlines to operate its six Fairchild Aerospace SA–227–DC Metro 23 aircraft after August 20, 2001, without each aircraft being equipped with an approved digital flight data recorder. *Grant, 4/30/2003, Exemption No. 7596A*

Docket No.: FAA–2001–9166.
Petitioner: North American Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 119.67(a)(1).
Description of Relief Sought/ Disposition: To permit Edward F. Dascoli to act as the Director of Operations for North American Airlines, Inc., without holding an airline transport pilot certificate. *Grant, 4/30/2003, Exemption No. 7510A*

[FR Doc. 03–11782 Filed 5–12–03; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

User Input to the Aviation Weather Technology Transfer (AWTT) Board

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input. Details: June 11, 2003; Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC; 9 a.m. to 12 p.m. in Conference Room 8A. The objective of this meeting is to provide an opportunity for interested aviation weather users to provide input on FAA's plans for implementing new weather products.

DATES: The meeting will be held in Conference Room 8A at the Federal Aviation Administration, 800 Independence, Ave., SW., Washington, DC 20591. Times: 9 a.m.–12 p.m. on June 11, 2003.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Aerospace Weather Policy Division, ARS–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number (202) 385–7705; Fax: (202) 385–7701; e-mail: *debi.bacon@faa.gov.* Internet address *http://www.debi.bacon@faa.gov.*

SUPPLEMENTARY INFORMATION:

History

In 1999, the FAA established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development into operations. The Director of the Aerospace Weather Policy and Standards Staff, ARS–20, chairs the AWTT Board. The board is composed of stakeholders in Air Traffic Services, ATS: Regulation and Certification, AVR; and Research and Acquisitions, ARA in the Federal Aviation Administration and the Office of Climate, Water and Weather Services, OS and the Office of Science and Technology, OST in the National Weather Service.

The AWTT Board meets semi-annually or as needed, to determine the readiness of weather research and development (R&D) products for experimental use, full operational use for meteorologists or full operational use for end users. The board's determinations will be based upon criteria in the following areas: users needs; benefits; costs; risks; technical readiness; operational readiness and budget requirements.

The user interface process is designed to allow FAA to both report progress and receive feedback from industry users. Each AWTT board meeting will be preceded by a half-day industry review session approximately one month prior to each board meeting. These industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting is the industry review session intended to receive feedback on a weather R&D product that will be presented for consideration at the July 2003 AWTT Board meeting. The products to be considered are the Forecast Inflight Icing Potential (FIP) and the Graphic Area Forecast (GFA).

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provided a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate. Any person attending must present picture identification to the building security guards for admission. Person with government-issued identification cards will be directed to conference room 8A. Persons without government-issued identification cards will be admitted but must be escorted by FAA personnel while within the building.

(c) FAA headquarters personnel will conduct an overview briefing on how the AWTT system works and changes to the process made in the last year. Any person will be allowed to ask questions during the presentation and FAA personnsel will clarify any part of the process that is not clear.

(d) FAA personnel, will present a briefing on the specific products to be review at the July 2003 AWTT Board Meeting. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the presentation that is not clear.

(e) Any person present may give feedback on the products to be presented. Feedback on the proposed products will be captured through discussion between FAA personnel and any persons attending the meeting. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript of minutes of the informal meeting will not be made. However, a list of the attendees, a digest of discussions during the meeting and an action item list will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback may also be submitted to FAA personnel for up to seven (7) days after the close of the meeting.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures
(b) Briefing on AWTT Process
(c) Briefing on Weather Products
(d) Request for User Input
(e) Closing Comments

* * * * *

Issued in Washington, DC on May 5, 2003.

David Whatley,

Staff Director, Aerospace Weather Policy Standard Staff.

[FR Doc. 03–11918 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

In-flight Icing/Ground De-icing International Conference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conference.

SUMMARY: The FAA issues this notice to advise the public of an In-flight Icing/Ground De-icing International Conference to present information and receive comments on: (1) Aircraft de/anti-icing during ground operations; (2) In-flight icing; (3) Icing environment meteorology; (4) Rotorcraft; (5) Ice detectors and airplane performance monitors; (6) Training for in-flight icing and aircraft de/anti-icing during ground operations; and (7) Regulations and guidance material development. This notice announces the dates, times, location, and registration information for the conference.

DATES: The conference is scheduled for June 16 through June 20, 2003, starting at 1 p.m. on June 16, and 8:30 a.m. on June 17 through June 20. The conference will end at 5:30 p.m. daily, except for the last day when the conference will end at 12 p.m.

ADDRESSES: The conference will be held at the Palmer House Hilton Hotel, 17 E.

Monroe Street, Chicago, Illinois 60603, USA, Telephone: (312) 726–7500, fax (312) 917–1707.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene G. Hill, FAA Certification, ANM–11N, 1601 Lind Avenue, SW., Renton, Washington 98055–4058; e-mail *eugene.hill@faa.gov;* telephone (425) 227–1293; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: This 2003 conference is a collaborative effort of the FAA, the Joint Aviation Authorities, Transport Canada, the National Aeronautics and Space Administration Glenn Research Center, the American Helicopter Society, the Meteorological Service of Canada, the National Center for Atmospheric Research, QINETIQ, and the Society of Automotive Engineers (SAE).

The agenda for the conference includes presentations of the seven (7) topics identified in the Summary section of this notice, as well as a SAE sponsored exhibition of icing-related equipment and services on open display throughout the conference.

Persons planning to attend this conference may register at the conference or via the Internet at: *http://www.sae.org/icing-deicing/.* The registration fee is US $265, which includes the lunches on June 17 through June 19, and beverages during the technical session breaks.

A block of rooms is being held until May 31, at the Palmer House Hilton Hotel, 17 E. Monroe Street, Chicago, Illinois 60603. You may make reservations by calling the hotel at (312) 726–7500, and reference the SAE/FAA In-flight Icing/Ground De-icing International Conference, or by mailing or faxing (312–917–1707) a completed registration form provided at: *http://www.sae.org/icing-deicing/,* directly to the hotel.

Issued in Washington, DC, on May 7, 2003.

David W. Hempe,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–11921 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Strafford and Rockingham Counties, New Hampshire

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Strafford and Rockingham Counties, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. William F. O'Donnell, P.E., Environmental Program Manager, Federal Highway Administration, 279 Pleasant Street, Suite 204, Concord, New Hampshire 03301–7502, Telephone: (603) 228–3057, x 145, or Mr. William R. Hauser, Administrator, Bureau of Environment, New Hampshire Department of Transportation, P.O. Box 483, John O. Morton Building, Concord, New Hampshire 03302–0483, Telephone: (603) 271–3226.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Hampshire Department of Transportation (NHDOT), will prepare an environmental impact statement (EIS) for a proposal for construction on an approximate 3.5-mile section of an existing highway facility (Spaulding Turnpike, NH Route 16, extending north from the Gosling Road/Pease Boulevard Interchange (Exit 1) in the Town of Newington, across the Little Bay Bridges, to a point just south of the existing toll facility in the City of Dover) that serves as a major north-south transportation link for the State of New Hampshire.

The proposed action would improve safety and increase transportation efficiency by relieving traffic congestion and reducing travel time, and accommodate projected increases in traffic demand.

Alternatives to be considered include (1) taking no action; (2) upgrading the existing route (approximately 3.5 miles in length) to add capacity; (3) applying Transportation Demand Management (TDM) measures, such as carpool parking lots, high occupancy vehicle lanes, etc.; (4) applying Transportation System Management (TSM) improvements to selected interchange locations on existing roads; and (5) combinations of these alternatives. Various options for bridge rehabilitation, widening, and/or replacement of the Little Bay Bridges, final disposition of the historic General Sullivan Bridge, consolidation of the interchanges, and various designs of grade, alignment, and geometry will be evaluated.

Public informational, community and Advisory Task Force meetings will be held in the study area as the project progresses to include public input in the project development process. A public hearing will be held following distribution of the Draft Environmental Impact Statement (DEIS). Public notice will be given regarding the time and location of this hearing. The DEIS will be available for review and comment by the public and interested agencies prior to the public hearing.

A formal scoping meeting has been scheduled and will be held at 4 p.m. on June 25, 2003, at the Newington Town Hall, 205 Nimble Hill Road in Newington, New Hampshire. At this session, an overview of the project area will be presented and the purpose and need of the project will be discussed. The purpose of this meeting is to (1) reaffirm the limits of the project study area; (2) refine the study framework and the impacts to be analyzed; and (3) define a reasonable range of alternatives to be considered.

Agencies, requested to become cooperating agencies, are the U.S. Army Corps of Engineers (ACOE), the U.S. Environmental Protection Agency (EPA), the new Hampshire State Historic Preservation Office (SHPO), the New Hampshire Department of Environmental Services (NHDES), the New Hampshire Fish & Game Department (NHF&GD), the New Hampshire Office of State Planning (OSP), the United States Coast Guard (USCG), the United States Fish & Wildlife Service (USFWS), and the National Marine Fishery Service (NMFS).

To ensure the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposal and the EIS should be directed to the FHWA or the NHDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on: May 5, 2003.

Kathleen O. Laffey,

Division Administrator, Concord, New Hampshire.

[FR Doc. 03–11873 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

Guidance on Red Light Camera Systems

AGENCIES: Federal Highway Administration (FHWA), National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice; issuance of guidance.

SUMMARY: This notice announces that the FHWA and the NHTSA have issued guidance on the installation and use of red light camera systems. The guidance, ''Guidance for Using Red Light Cameras,'' is available at the following URLs: *http://safety.fhwa.dot.gov/rlcguide/index.htm* and *http://www.nhtsa.dot.gov/people/injury/enforce/guidance03/introduction.htm.* As the use of cameras to issue citations to motorists running red lights is becoming increasingly widespread throughout the United States, the installation and operation of these cameras has been inconsistent. The agencies intend for this guide to provide relevant information on implementation and operational concerns of red light camera systems to State and local agencies in order to promote consistency nationwide.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Hari Kalla, Office of Safety, HSA–10, (202) 366–5915, or Mr. Raymond Cuprill, Office of the Chief Counsel, HCC–30, (202) 366–0761. FHWA office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays. For NHTSA: Mr. Earl Hardy, Office of Traffic Injury Control. NTI–122, (202) 366–4295. NHTSA office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Both offices are located at 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov.* An electronic version of the guidance document may be downloaded by accessing the FHWA Web site at *http://safety.fhwa.dot.gov/rlcguide/index.htm* and/or the NHTSA Web site at *http://www.nhtsa.dot.gov/people/injury/enforce/guidance03/introduction.htm.*

Background

The use of red light cameras for the enforcement of red light running violations at signalized intersections is becoming increasingly widespread in the United States, beginning with the first U.S. installation in New York City in 1992, and reaching more than 75 jurisdictions by the end of 2002. [1] State and local agencies have found that the use of red light cameras can reduce red light running violations by motorists from 20 percent to over 50 percent .[2] The rapid deployment of red light cameras across the United States has been viewed by some as a single, fix-all, solution to the growing concerns about red light running and crashes attributable to red light running. This belief may lead to the inappropriate use of red light camera systems and inaccurate assessment of actual intersection safety problems.

Appearance of fairness in the use of red light cameras, in a broader perspective, can provide support for other forms of technology used to improve transportation operations and safety. Therefore, the FHWA and NHTSA have developed guidance on the implementation and operation of red light camera systems in the United States. Although not a regulatory requirement, the guidance is intended to provide relevant information on implementation and operational concerns of red light camera systems to State and local agencies in order to promote consistency nationwide and to ensure that this effective tool, and other forms of technology, remain available to transportation agencies around the nation.

The guidance is designed to assist State and local agency managers, transportation engineers, and law enforcement officials in identifying and addressing safety problems resulting from red light running within their jurisdictions. The guidance provides proven and effective practices that have been implemented throughout the United States, and generally provides procedures that can be followed to ensure that effective, efficient and fair solutions are implemented.

Conclusion

The FHWA and the NHTSA provide this guidance as a tool for those jurisdictions interested in implementing red light camera systems. This guidance identifies the recommended circumstances and methods by which red light cameras should be installed. The guidance, ''Red Light Camera System Guidance'' is available electronically at the following URLs: *http://safety.fhwa.dot.gov/rlrcguide.htm* and *http://www.nhtsa.dot.gov/people/injury/enforce/guidance03/introduction.htm* and it is available for copying and inspection at the U.S. Department of Transportation Library, Room 2200, 400 Seventh Street, SW., Washington, DC 20590.

Authority: 23 U.S.C. 401; 49 CFR 1.48(n); 49 CFR 1.50(b).

Issued on: May 2, 2003.

Jeffrey W. Runge,

Administrator, National Highway Traffic Safety Administration.

J. Richard Capka,

Deputy Federal Highway Administrator.

[FR Doc. 03–11780 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–22–P

[1] Insurance Institute of Highway Safety, Red Light Camera in Action, is available at the following URL: *http://www.hwysafety.org/safety%5Ffacts/rlc_cities.htm.*

[2] Public Technology, Inc, ''Is Photo Enforcement For You? A White Paper for Public Officials'', is available for purchase at the following URL: *http://www.pti.org* .

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 29]

Railroad Safety Advisory Committee (''RSAC''); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) working group activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect their current status.

FOR FURTHER INFORMATION CONTACT: Trish Butera or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: This notice serves to update FRA's last announcement of working group activities and status reports on

September 3, 2002, (67 FR 56341). The 20th full Committee meeting was held September 19, 2002, at the Almas Temple Club in Washington, DC. The 21st meeting is scheduled for May 20, 2003.

Since its first meeting in April of 1996, the RSAC has accepted 17 tasks. An additional task, Amendments to the Passenger Equipment Safety Standards (49 CFR part 238) and the Passenger Train Emergency Preparedness (49 CFR part 239) will be proposed at the next meeting. Status for each of the tasks is provided below:

Task 96–1—(Completed) Revising the Freight Power Brake Regulations. The final rule was published on January 17, 2001 (66 FR 4104). An amendment extending the effective date of the final rule until May 31, 2001, was published on February 12, 2001 (66 FR 9905). Amendments to subpart D of the final rule were published August 1, 2001 (66 FR 36983). Amendments responding to the remaining issues raised in petitions for reconsideration were published in the **Federal Register** on April 10, 2002 (67 FR 17556).

Task 96–2—(Completed) Reviewing and recommending revisions to the Track Safety Standards (49 CFR part 213). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule was September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. The GRMS final rule amendment was published January 10, 2001 (66 FR 1894). On January 31, 2001, FRA published a notice extending the effective date of the GRMS amendment to April 10, 2001 (66 FR 8372). On February 8, 2001, FRA published a notice delaying the effective date until June 9, 2001, in accordance with the Regulatory Review Plan (66 FR 9676).

Task 96–3—(Completed) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR part 220). The final rule was published on September 4, 1998 (63 FR 47182), and was effective on January 2, 1999.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group monitored the steam locomotive regulations task. Planned future activities involve the review of other regulations for possible adaptation to the safety needs of tourist and historic railroads. Contact: Grady Cothen (202) 493–6302.

Task 96–5—(Completed) Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR part 230). The final rule was published on November 17, 1999 (64 FR 62828), and became effective January 18, 2000.

Task 96–6—(Completed) Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR part 240). The final rule was published November 8, 1999 (64 FR 60966).

Task 96–7—Developing Roadway Maintenance Machine (On-Track Equipment) Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force finalized a proposed rule which was approved by the full RSAC in a mail ballot in August 2000. The NPRM was published January 10, 2001 (66 FR 1930). The Task Force met to review comments on February 27–March 1, 2002, and agreed to the disposition of the comments for the final rule. A Ballot was issued to the Working Group and all responders concurred. The RSAC approved the recommendations at the full RSAC meeting on May 29, 2002. The next step is to complete and publish the final rule. Contact: Al MacDowell (202) 493–6236.

Task 96–8—(Completed) This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Planning Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories, and prepared drafts of the task statements for Tasks 97–1 and 97–2.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1997. A Task Force on engineering issues was established by the Working Group on Locomotive Crashworthiness to review collision history and design options and additional research was commissioned. The Working Group reviewed results of the research and is drafting performance-based standards for freight and passenger locomotives to present to the RSAC for consideration. An accident review task force has evaluated the potential effectiveness of suggested improvements. The Working Group reached tentative agreement for a proposed rule. The NPRM and Regulatory Impact Analysis are being revised to reflect the changes. The next step is the Working Group review of the final NPRM draft. Contact: Sean Mehrvazi (202) 493–6108.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997.

(Sanitation). (Completed) The final rule was published on April 4, 2002, with an effective date of July 3, 2002 (67 FR 16032). One petition for reconsideration was filed and is under review by FRA.

(Noise exposure.) The Cab Working Conditions Working Group met most recently in Chicago, November 12–14, 2002. A tentative consensus was reached on the draft rule text. Next steps are Working Group, then full RSAC approval of the NPRM in the spring.

The Cab Working Group has also considered issues related to cab temperature, and is expected to consider additional issues (such as vibration) in the future. No further action is planned at this time. Contact: Jeffrey Horn (202) 493–6283.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. The Event Recorder Working Group met actively in 2002, reviewing draft language for an NPRM. In mid-2003 a revised draft NPRM will be circulated to the Working Group for review and approval. Contact: Edward Pritchard (202) 493–6247.

Task 97–4 and Task 97–5—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group.

(Report to the Administrator.) A Data and Implementation Task Force, formed to address issues such as assessment of costs and benefits and technical readiness, completed a report on the future of PTC systems. The report was accepted as RSAC's Report to the Administrator at the September 8, 1999, meeting. FRA enclosed the report with

a letter Report to Congress signed May 17, 2000.

(Report to Congress.) The Appropriations Conferees included in their report on the FY 2003 DOT Appropriations Act a requirement for a second review of the costs and benefits of PTC. FRA will request the RSAC to comment on the draft report when available.

(Regulatory development.) The Standards Task Force, formed to develop PTC standards assisted in developing draft recommendations for performance-based standards for processor-based signal and train control systems. The NPRM was approved by consensus at the full RSAC meeting held on September 14, 2000. The NPRM was published in the **Federal Register** on August 10, 2001. A meeting of the Working Group was held December 4–6, 2001, in San Antonio, Texas to formulate recommendations for resolution of issues raised in the public comments. Agreement was reached on most issues raised in the comments. A meeting was held May 14–15, 2002, in Colorado Springs, Colorado at which the working group approved creation of teams to further explore issues related to the ''base case'' issue. Briefing of the full RSAC on the ''base case'' issue was completed on May 29, 2002, and consultations continue within the working group. The full Working Group met October 22–23, 2002, and again March 4–6, 2003. The Risk2 Team is meeting to develop a resolution to the base case issue; and the Accident Review Team is meeting to update the review of preventable accidents. The next full Working Group meeting is July 8–9, 2003.

(Other program development activities.) Task forces on Human Factors and the Axiomatic Safety-Critical Assessment Process (risk assessment) continue to work toward development of a risk assessment toolkit, and the Working Group continues to meet to monitor the implementation of PTC and related projects. Contact: Grady Cothen (202) 493–6302.

Task 97–7—(Completed) Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997, and a group was formed to address this task. A statistical analysis, using the survey data about damages to railroad equipment, was done to see if the method could be used to calculate property damages. After reviewing the options, the Working Group agreed to terminate action on this task. The Working Group reviewed a draft close-out report which was approved by the full RSAC on February 13, 2002, terminating this task.

Task 00–1—Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end marking devices (Blue Signal Protection). The working group held its first meeting on October 16–18, 2000, and six meetings have been held since then. The Working Group has reached tentative consensus on several issues. FRA is preparing documents and planning a meeting in an effort to assist in moving toward resolution of several remaining issues. Contact: Doug Taylor (202) 493–6255.

Task 01–1—(Completed) Developing conformity of FRA's regulations for accident/incident reporting (49 CFR part 225) to revised regulations of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and to make appropriate revisions to the FRA Guide for Preparing Accident/Incident Reports (Reporting Guide). The Final Rule was published March 3, 2003 (68 FR 10108), and will become effective May 1, 2003.

Task 03–01—(Proposed) Amendments to the Passenger Equipment Safety Standards (49 CFR part 238) and the Passenger Train Emergency Preparedness (49 CFR part 239). FRA announces its intent that any further amendments to the Passenger Equipment Safety Standards (49 CFR part 238) and the Passenger Train Emergency Preparedness (49 CFR part 239) regulations be made under the auspices of the RSAC. Both rules arose from rulemakings FRA initiated pursuant to the Federal Railroad Safety Authorization Act of 1994 (the Act). *See* Pub. L. 103–440, 108 Stat. 4619, 4623–4624, November 2, 1994). The Act mandated the establishment of minimum standards for the safety of cars used by railroad carriers to transport passengers, taking into account the (i) crashworthiness of the cars, (ii) safety of interior features, (iii) maintenance and inspection of the cars, (iv) emergency response procedures and equipment, (v) and any operating rules and conditions directly affecting safety not otherwise governed by regulations. *See* 49 U.S.C. 20133. Pursuant to the Act, FRA published the Passenger Train Emergency Preparedness final rule on May 4, 1998. *See* 63 FR 24630. Thereafter, FRA published the Passenger Equipment Safety Standards final rule on May 12, 1999 (*see* 64 FR 25540), and subsequently amended the regulation three times in response to petitions for reconsideration (*see* 65 FR 41284, July 3, 2000; 67 FR 19970, April 23, 2002; and 67 FR 42892; June 25, 2002).

With publication of these regulations, FRA believes it has complied with the statutory mandate to establish minimum standards for the safety of cars used by railroad carriers to transport passengers. These regulations constitute a comprehensive set of standards that address both the safety concerns expressly identified in the statute and others affecting passenger and employee safety. FRA recognizes that these regulations can be refined and improved, especially to take advantage of advancing technologies. FRA intends that further amendments to the Passenger Equipment Safety Standards and the Passenger Train Emergency Preparedness regulations be made under the auspices of RSAC. Both regulations benefitted from consultations with working groups specially authorized by the Act to assist FRA in their development. FRA desires that that consultative process continue through RSAC to assist FRA in making any necessary amendments to the regulations. FRA will request the establishment of a new Passenger Safety Working Group to assist in providing overall direction for this effort. Contact: Grady Cothen (202) 493–6302.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for more information about the RSAC.

Issued in Washington, DC on May 5, 2003.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 03–11777 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2003 Apportionments, Allocations and Program Information; Notice of Supplemental Information, Changes, and Corrections

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice; supplemental information, changes, and corrections.

SUPPLEMENTARY INFORMATION: The ''Emergency Wartime Supplemental Appropriations Act, 2003'' (Pub. L. 108–11) was signed by President Bush on April 16, 2003. The Act contains four general provisions that affect the Federal Transit Administration (FTA) Fiscal Year (FY) 2003 appropriations and programs. This notice identifies these provisions and also notes corrections to the FTA Notice entitled

''FTA Fiscal Year 2003 Apportionments, Allocations and Program Information; Notice,'' published in the **Federal Register** on March 12, 2003.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator or Mary Martha Churchman, Director, Office of Resource Management and State Programs, (202) 366–2053.

I. FTA FY 2003 Job Access and Reverse Commute Program Allocations

In the **Federal Register** Notice of FTA Fiscal Year 2003 Apportionments, Allocations and Program Information, published March 12, 2003, FTA noted that project selections for the Job Access and Reverse Commute program would be published separately.

Of the $150,000,000 made available for the Job Access and Reverse Commute (JARC) program by Public Law 108–7, the Department of Transportation (DOT) and Related Agencies Appropriations Act for Fiscal Year 2003, (FY 2003 DOT Appropriations Act) Congress directed that $45,000,000 be used for new fixed guideway systems under FTA's Capital Investment Grants program, leaving $105,000,000 for the JARC program. Section 601 of Title VI of the Consolidated Appropriations Resolution, 2003, requires an across-the-board .65 percent reduction proportionately applied to the discretionary budget authority and obligation limitation, and to each program, project and activity. When the .65 percent is taken from $105,000,000, a total of $104,317,500 remains available for JARC projects. The FY 2003 DOT Appropriations Act also permitted FTA to make up to $300,000 available for technical assistance and support and performance reviews of the JARC program. FTA reduced this amount by .65 percent and reserved $298,050 for program evaluation. Of the total $104,317,500 FY 2003 JARC funding, $104,019,450 remains available for allocation to projects. Congress designated projects totaling $104,999,000 in the Conference report accompanying the FY 2003 DOT Appropriations Act.

Section 2706(a) of Title II, Chapter 7 of Public Law 108–11, the Emergency Wartime Supplemental Appropriations Act, 2003, states, ''projects and activities on pages 1303 through 1307 (of the Joint Explanatory Statement of the Committee of Conference for Public Law 108–7) shall be awarded those grants upon receipt of an application.'' To apply for JARC funds, all applicants must submit an application through FTA's electronic grant-making system, TEAM, for projects that meet JARC program requirements as set forth in Part II of the solicitation notice for fiscal years 2002 and 2003, published in the **Federal Register** on April 8, 2002. Applicants should contact the appropriate regional offices for assistance with project development and grant application procedures. A list of all FTA regional offices is included at Appendix B of the April 8 **Federal Register** notice. This notice can be found at: [*http://www.fta.dot.gov/library/legal/federalregister/2002/fr4802a.pdf.*]

The table below provides the amount available for each project after subtraction of the funds for technical assistance and performance review and the across-the-board .65 percent reduction proportionately applied to all JARC projects.

FEDERAL TRANSIT ADMINISTRATION

[FY 2003 job access and reverse commute program allocations]

State	Project and description	Allocation
AK	Alaska Mobility Coalition	$495,335
AK	Kenai Peninsula Transit Planning	495,335
AK	MASCOT Matanuska-Susitna Valley	198,134
AL	Jefferson County	2,972,013
AZ	AJO to Phoenix Rural Express Bus Service	198,134
AZ	Maricopa County Worklinks Project	247,668
AZ	Southwest Transit Assessment & Review Team Bus Route 131	297,201
AZ	Valley Metro (RPTA), City of Phoenix	1,089,738
CA	AC Transit—CalWORKS	1,981,342
CA	County of Santa Clara Guaranteed Ride Home Program	495,335
CA	East Palo Alto Shuttle Service	693,470
CA	LA County UTRANS	495,335
CA	Los Angeles County; MTA Ride Share Program	866,837
CA	Low-Income LIFT Program SF MTC	990,671
CA	SACOG Sacramento Region	743,003
CA	Sacramento Area	1,486,006
CA	Southern California Regional Rail Authority, Metrolink Double Tracking	990,671
CO	Colorado Statewide—Colorado Association of Transit Agencies (CASA)	792,537
CT	Connecticut Statewide	3,467,348
DC	Georgetown Metro Connection—Washington, DC	1,089,738
DC	WMATA (DC, Maryland, and Virginia)	2,105,176
DE	Delaware Welfare to Work Initiative	743,003
FL	HART Access to Jobs Program	693,470
FL	Jacksonville Trans. Authority Choice Ride Program	1,609,840
FL	Key West	990,671
FL	LYNX Central Florida Regional	198,134
GA	Chatham	433,914
GA	Macon—Bibb County Reverse Commute Program	767,770
IA	Iowa Statewide	990,671
IL	DuPage County Coordinated Paratransit Program	495,335
IL	Illinois Ways to Work	495,335
IL	Rock Island County Mass Transit District (MetroLink)	178,321
IL	Ways-to-Work—IL—MO	990,671
IN	Fort Wayne's Hanna Creighton Transit Center	743,003
IN	IndyGo Service	990,671
KS	KW Paratransit Vehicle	29,720

FEDERAL TRANSIT ADMINISTRATION—Continued

[FY 2003 job access and reverse commute program allocations]

State	Project and description	Allocation
KS	Mid America Regional Council (MARC)	495,335
KS	Wyandotte County	1,139,271
LA	Lafayette Ways to Work Program	99,067
MA	Brockton Area Transit Authority	222,901
MA	Community Transportation Association of America	990,671
MA	Northern Tier Dial-A-Ride	396,268
MA	Transportation Services of Northern Berkshire, Inc.	396,268
MD	Maryland Statewide (Montgomery County, $600,000)	4,953,354
MI	Flint Mass Transportation Authority	1,040,204
MI	Grands Rapids/Kent County Job Access Plan	929,249
MN	Minneapolis/St. Paul, Met Council	990,671
MO	Metrolink Corridor Access to Jobs	2,972,013
MO	Metropolitan Kansas City Job Access Partnership	990,671
MO	Missouri Statewide	1,386,939
MO	Ways to Work Missouri	222,901
NC	Community Transportation Association of America's Joblinks Employment Transportation Initiative	990,671
NC	Wake County Coordinated Transportation System	767,770
NH	Lancaster—Littleton Transit Project	49,534
NJ	New Jersey Statewide	4,953,354
NY	Broome County Transit—Binghamton, NY	247,668
NY	Capital District Transportation Authority Albany	272,434
NY	Central NY Regional Transportation Authority	495,335
NY	Chautauqua Area Rural Transportation System	49,534
NY	Chemung County transit	74,300
NY	Columbia County	99,067
NY	Franklin County Expansion of Hour Service	74,300
NY	Hornell Trans. Alternatives for NY	49,534
NY	Ithaca Service	74,300
NY	MTA—Long Island Bus	247,668
NY	New York State DOT	495,335
NY	Orange County	99,067
NY	Rochester-Genesee Regional Transportation Authority (RGRTA)	594,403
NY	Tompkins Consolidated Area Transit, Tompkins County	297,201
OH	Central Ohio Transit Authority (COTA)—Mobility Management	594,403
OH	Greater Cleveland Regional Transit Authority	495,335
OH	Northwest Ohio Commuter LINK Toledo	371,502
OH	STEP-UP Job Access Project Dayton	123,834
OK	Oklahoma Transit Association	4,953,354
OR	Jackson-Josephine County	198,134
OR	Oregon Ways to Work Loan Program	247,668
OR	Portland Metropolitan Region	2,129,942
OR	Salem Area Transit	495,335
PA	Port Authority of Allegheny County Access to Jobs	3,962,683
PA	SEPTA	5,518,041
RI	Rhode Island Deployment of Flexible Services	743,003
RI	Rhode Island Public Transit	1,981,342
TN	Chattanooga	495,335
TN	Knoxville	743,003
TN	State of Tennessee	1,486,006
TX	Abilene Citylink Program	99,067
TX	Austin Capital Metros Access	2,476,677
TX	Citibus, Lubbock	227,854
TX	Corpus Christi	1,213,572
TX	East Texas Just Transportation Alliance (ETJTA): Tyler Transit	198,134
TX	El Paso	247,668
TX	Galveston	594,403
TX	San Antonio Access to Jobs Program	1,077,850
VA	City of Charlottesville	371,502
VA	Fairfax County, Short-Term Transit Improvements	1,585,073
VA	Virginia Regional Transportation Association, Route 7 Service/Dulles Corridor	198,134
VA	Community Transportation Association of America	148,601
WA	WA WorkFirst Initiative	4,705,687
WA	Ways to Work—EPIC Yakima	495,335
WI	Wisconsin Statewide	5,151,488
WV	West Virginia Statewide	990,671
	Total Allocations	104,019,450

II. FY 2003 Operating Assistance for Eligible 1990 Census Nonurbanized Areas

Section 2707 of Title II, Chapter 7 of Public Law 108–11 states: ''Notwithstanding any other provision of law, funds made available under the heading ''Federal Transit Administration Formula Grants'' for fiscal year 2003 shall be available to finance the operating cost of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000 as determined under the 2000 Federal decennial census of population for a portion of the area that was not designated as an urbanized area as determined under the 1990 Federal decennial census of population if that portion of the area received assistance under section 5311 of title 49, United States Code.''

A grant applicant for an area eligible to receive operating assistance under this provision that wants to make use of this provision must so state in the grant application. The application must identify the previously nonurbanized portion of the urbanized area that qualifies (*i.e.*, that portion of the area that was not designated as urbanized under the 1990 census and received assistance under section 5311). Please contact the appropriate FTA regional office for additional information or guidance if you intend to make use of this provision.

III. Section 336 of FY 2003 DOT Appropriations Act Amended

Section 336 of FY 2003 DOT Appropriations Act directed that the city of Norman, OK shall be considered part of the Oklahoma City Transportation Management Area. Section 2701 of Title II, Chapter 7 of Public Law 108–11 amends Section 336 of the FY 2003 DOT Appropriations Act by striking ''Transportation Management'' and inserting ''Urbanized'' in lieu thereof. In the table on page 11911 of the FTA Fiscal Year 2003 Apportionments, Allocations and Program Information, Notice, published March 12, 2003, the reference to Oklahoma City, OK and Norman, Oklahoma are no longer appropriate and should be deleted.

IV. Section 626 of Title VI, Public Law 108–7 Amended

Section 626 of Title VI, Public Law 108–7 provides that ''Any amounts previously appropriated for the Port of Anchorage for an intermodal marine facility and access thereto shall be transferred to and administered by the Administrator for Maritime Administration * * *.'' Section 2709 of Title II, Chapter 7 of Public Law 108–11 amends Section 626 by striking 'previously.' Accordingly, FY 2002 and FY 2003 Section 5309 Bus and Bus-Related allocations for the Port of Anchorage Intermodal Facility project will be transferred to the Maritime Administration.

V. Corrections

In the table on page 11911 of the FTA Fiscal Year 2003 Apportionments, Allocations and Program Information, Notice, published March 12, 2003, the following corrections are noted to information in the ''Designated TMA'' column: ''Philadelphia, PA–NJ–DENJ–MD'' should read ''Philadelphia, PA–NJ–DE–MD''; and ''Washington, DCNJ–VANJ–MD'' should read ''Washington, DC–VA–MD''.

Issued on: May 2, 2003.

Jennifer L. Dorn,

Administrator.

[FR Doc. 03–11778 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA)

[Docket No. RSPA–98–4470]

Pipeline Safety: Meetings of the Pipeline Safety Advisory Committee

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice, correction.

SUMMARY: In the **Federal Register** Notice of May 1, 2003, (68 FR 23357) the Research and Special Programs Administration's Office of Pipeline Safety (OPS) published a notice document regarding a meeting of the Technical Pipeline Safety Standards Committee. The **DATES** section of this notice should be corrected to read as follows:

DATES: The meetings will be held on Wednesday, May 28 from 1:30 p.m. to 5 p.m., Thursday, May 29 from 9 a.m. to 5 p.m., and Friday, May 30 from 9 a.m. to 4 p.m.

EFFECTIVE DATE: This correction takes effect May 1, 2003.

FOR FURTHER INFORMATION CONTACT: Cheryl Whetsel, OPS, (202) 366–4431, or Richard Huriaux, OPS, (202) 366–4565.

Issued in Washington, DC on May 6, 2003.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 03–11779 Filed 5–12–03; 8:45 am]

BILLING CODE 4910–60–U

DEPARTMENT OF VETERANS AFFAIRS

Professional Certification and Licensure Advisory Committee Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Professional Certification and Licensure Advisory Committee has scheduled a meeting on Wednesday, June 11, 2003, at the Department of Veterans Affairs, Veterans Benefits Administration Education Conference Room 601V, 1800 G Street, NW., Washington, DC, from 8:30 a.m. to 4 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under Chapters 30, 32, 34, or 35 of Title 38, United States Code.

The meeting will begin with opening remarks and an overview by Ms. Sandra Winborne, Committee Chair. During the morning session, the Committee will receive a presentation on licensure and certification usage, and a progress report on improvements to the Licensing and Certification Approval System (LACAS). The afternoon session will include discussion on any old or new business.

Interested person may file statements with the Committee, in written form, before the meeting or within 10 days after the meeting to Mr. Giles Larrabee, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (225B), 810 Vermont Avenue, NW., Washington, DC. Oral statements from the public will be heard at 1 p.m. Any member of the public wishing to attend the meeting should contact Mr. Giles Larrabee or Mr. Michael Yunker at (202) 273–7187.

Dated: April 6, 2003.

By Direction of the Secretary:

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–11846 Filed 5–12–03; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Structural Safety of Department of veterans Affairs Facilities will be held on Thursday, June 5, 2003, from 10 a.m. until 5 p.m., and on Friday, June 6, 2003, from 9 a.m. until 12:30 p.m., in Room 442, Export Import Bank, 811 Vermont Avenue, NW., Washington DC. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of facilities as prescribed under section 8105 of Title 38, United States Code.

On June 5, the Committee will review developments in the filed of structural design, as they relate to seismic safety of buildings, and fire safety issues. One June 6, the Committee will vote on structural and fire safety issues for inclusion in VA's standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments can be sent to Mr. Krishna K. Banga, Senior Structural Engineer, Facilities Quality Service, Office of Facilities Management (181A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Those wishing to attend should contact Mr. Banga at (202) 565–9370.

Dated: April 2, 2003.

By Direction of the Secretary:

E. Phillip Riggin,

Committee Management Officer.

[FR Doc. 03–11845 Filed 5–12–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 92

Tuesday, May 13, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AH–FRL–7478–3]

RIN 2060–AF01

Revision to the Guideline on Air Quality Models: Adoption of a Preferred Long Range Transport Model and Other Revisions

Correction

In rule document 03–8542 beginning on page 18440 in the issue of Tuesday, April 15, 2003, make the following correction:

On the same page, in the first column, under the **DATES** heading, in the second line, ''April 15, 2003'' should read, ''April 15, 2004.''

[FR Doc. C3–8542 Filed 5–12–03; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0018; FRL–7303–4]

National Tribal Conference on Environmental Management; Notice of Proposal Solicitation

Correction

In notice document 03–10168 beginning on page 20142 in the issue of Thursday, April 24, 2003, make the following correction:

On page 20142, in the third column, under the heading **DATES**, in the second line, ''June 23, 2003'' should read, ''July 23, 2003''.

[FR Doc. C3–10168 Filed 5–12–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14932; Airspace Docket No. 03–ACE–35]

Modification of Class E Airspace; Hays, KS

Correction

In rule document 03–11033 beginning on page 23581 in the issue of Monday, May 5, 2003, make the following correction:

§71.1 [Corrected]

On page 23582, in the second column, under the heading **ACE KS E2 Hays, KS**, in the first full paragraph, in the fourth line, ''7 miles'' should read, ''6 miles.''

[FR Doc. C3–11033 Filed 5–12–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
May 13, 2003

Part II

Environmental Protection Agency

40 CFR Part 438

Effluent Limitations Guidelines and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 438

[FRL–7453–6]

RIN 2040–AB79

Effluent Limitations Guidelines and New Source Performance Standards for the Metal Products and Machinery Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is publishing final regulations establishing Clean Water Act (CWA) technology-based effluent limitations guidelines for the metal products and machinery (MP&M) point source category. The metal products and machinery point source category includes facilities that manufacture, rebuild, or maintain metal products, parts, or machines. EPA is promulgating limitations and standards only for facilities that directly discharge wastewaters from oily operations in the Oily Wastes subcategory.

EPA expects compliance with this regulation to reduce the discharge of conventional pollutants by approximately 500,000 pounds per year. EPA estimates the annual cost of the rule will be $13.8 million (pre-tax $2001). EPA estimates that the annual benefits of the rule to be approximately $1.5 million ($2001).

DATES: This regulation shall become effective June 12, 2003.

ADDRESSES: The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC) in the basement of the EPA West Building, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The rule and key supporting materials are also electronically available via EPA Dockets (Edocket) at *http://www.epa.gov/edocket/* under Edocket number OW–2002–0033 or at *http://www.epa.gov/guide/mpm/.*

FOR FURTHER INFORMATION CONTACT: For technical information concerning today's final rule, contact Mr. Carey A. Johnston at (202) 566–1014 or Ms. Shari Z. Barash at (202) 566–0996. For economic information contact Mr. James Covington at (202) 566–1034.

SUPPLEMENTARY INFORMATION:

What Entities Are Potentially Regulated by This Final Rule?

Entities potentially regulated by this action include facilities that directly discharge wastewaters from oily operations and include the following types:

Category	Examples of regulated entities
Industry	Facilities that discharge wastewater from oily operations and manufacture, maintain, or rebuild metal parts, products or machines used in the following sectors: Aerospace, Aircraft, Bus & Truck, Electronic Equipment, Hardware, Household Equipment, Instruments, Mobile Industrial Equipment, Motor Vehicles, Office Machines, Ordnance, Precious Metals and Jewelry, Railroad, Ships and Boats, Stationary Industrial Equipment, and Miscellaneous Metal Products.
Government	State and local government facilities that discharge wastewater from oily operations and manufacture, maintain, or rebuild metal parts, products or machines in one of the sectors previously listed (*e.g.*, a town that operates its own bus, truck, and/or snow removal equipment maintenance facility). Federal facilities that discharge wastewater from oily operations and manufacture, maintain, or rebuild metal parts, products or machines.

Note: The term ''oily operations'' is defined at 40 CFR 438.2(f) and appendix B of part 438.
Note: See Appendix A of the TDD for a list of example NAICS and SIC codes that may apply to facilities regulated by MP&M.

EPA does not intend the preceding table to be exhaustive, but rather it provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria listed at 40 CFR 438.1 and 438.10 of today's rule. If you still have questions regarding the applicability of this action to a particular entity, consult one of the persons listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How Can I Get Copies of This Document and Other Related Information?

EPA has established an official public docket for this action under Docket ID. No. OW–2002–0033. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC) in the basement of EPA West, Room B102, 1301 Constitution Ave., NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. For access to the docket materials, please call ahead to schedule an appointment. A reasonable fee may be charged for photocopying.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility previously identified. Once in the system, select ''search,'' then key in the appropriate docket identification number (OW–2002–0033).

Major supporting documents are also available in hard copy from the National Service Center for Environmental Publications (NSCEP), U.S. EPA/NSCEP, PO Box 42419, Cincinnati, Ohio, USA 45242–2419, (800) 490–9198, *http://www.epa.gov/ncepihom/.* You can obtain electronic copies of this preamble and rule as well as major supporting documents at EPA Dockets at *http://www.epa.gov/edocket/* and *http://www.epa.gov/guide/mpm.* The two major documents supporting the final regulations are:

- *''Development Document for the Final Effluent Limitations Guidelines and Standards for the Metal Products & Machinery Point Source Category''* [EPA–821–B–03–001] referred to in the preamble as the Technical Development Document (TDD): This document presents the technical information that formed the basis for EPA's decisions in today's final rule. The TDD describes, among other things, the data collection activities, the wastewater treatment

technology options considered by the Agency as the basis for effluent limitations guidelines and standards, the pollutants found in MP&M wastewaters, and the estimation of pollutant removals associated with certain pollutant control options.

• *''Economic, Environmental, and Benefits Analysis of the Final Metal Products & Machinery Rule''* [EPA–821–B–03–002] referred to in the preamble as the Economic, Environmental, and Benefits Analysis (EEBA): This document presents the methodology employed to assess economic impacts and environmental impacts and benefits of the final rule and the results of the analysis.

What Process Governs Judicial Review for Today's Final Rule?

In accordance with 40 CFR 23.2, today's rule is considered promulgated for the purposes of judicial review as of 1 p.m. Eastern Daylight Time, May 27, 2003. Under section 509(b)(1) of the Clean Water Act (CWA), judicial review of today's effluent limitations guidelines and standards may be obtained by filing a petition in the United States Circuit Court of Appeals for review within 120 days from the date of promulgation of these guidelines and standards. Under section 509(b)(2) of the CWA, the requirements of this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

What Are the Compliance Dates for Today's Final Rule?

Existing direct dischargers must comply with today's limitations based on the best practicable control technology currently available (BPT) and the best conventional pollutant control technology (BCT) as soon as their National Pollutant Discharge Elimination System (NPDES) permits include such limitations. New direct discharging sources must comply with applicable new source performance standards (NSPS) on the date the new sources begin discharging. For purposes of NSPS, a source is a new source if it commences construction after June 12, 2003.

How Does EPA Protect Confidential Business Information (CBI)?

EPA notes that certain information and data in the record supporting the final rule have been claimed as CBI and, therefore, EPA has not included these materials in the record that is available to the public in the Water Docket. Further, the Agency has withheld from disclosure some data not claimed as CBI because release of this information could indirectly reveal information claimed to be confidential. To support the rulemaking while preserving confidentiality claims, EPA is presenting in the public record certain information in aggregated form or, alternatively, is masking facility identities or employing other strategies. This approach assures that the information in the public record explains the basis for today's final rule without compromising CBI claims.

How Is This Preamble Organized?

The following outline is for the preamble to the final rule. It is written in plain language designed to help the reader understand the information in the final rule. This preamble contains a short summary of what was proposed, the key comments that the Environmental Protection Agency (EPA) received on the proposed rule, and the principal bases for EPA's decisions.

I. Legal Authority

The U.S. Environmental Protection Agency is promulgating these regulations under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361 and under authority of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13101 *et seq.,* Public Law 101–508, November 5, 1990.

II. Legislative Background

A. Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (section 101(a), 33 U.S.C. 1251(a)). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards that restrict pollutant discharges from facilities that discharge wastewater through sewers flowing to publicly-owned treatment works (POTWs) (section 307(b) and (c), 33 U.S.C. 1317(b) and (c)). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers which pass through, interfere with, or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to develop and enforce local pretreatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (*see* 40 CFR 403.5).

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits; indirect dischargers must comply with pretreatment standards. These limitations and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

1. Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA

In the regulations, EPA defines BPT effluent limitations for conventional, toxic, and non-conventional pollutants. Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD^5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease (O&G) as an additional conventional pollutant on July 30, 1979 (*see* 44 FR 44501). EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific substances have been designated priority toxic pollutants (*see* Appendix A to part 403, reprinted after 40 CFR 423.17). All other pollutants are considered to be non-conventional.

In specifying BPT, EPA looks at a number of factors. EPA first considers the total cost of applying the control technology in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes employed and any required process changes, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the EPA Administrator deems appropriate (CWA 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may reflect higher levels of control than currently in place in an industrial category if the Agency determines that the technology can be practically applied.

2. Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing industrial point sources. In addition to the other factors specified in section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. EPA explained its methodology for the development of BCT limitations in July 1986 (*see* 51 FR 24974).

3. Best Available Technology Economically Achievable (BAT)—Section 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best available economically achievable performance of plants in the industrial subcategory or category. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements. The Agency retains considerable discretion in assigning the weight to be accorded these factors. BAT limitations may be based on effluent reductions attainable through changes in a facility's processes and operations. Where existing performance is uniformly inadequate, BAT may reflect a higher level of performance than is currently being achieved within a particular subcategory based on technology transferred from a different subcategory or category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

4. New Source Performance Standards (NSPS)—Section 306 of the CWA

NSPS reflect effluent reductions that are achievable based on the best available demonstrated control technology. New sources have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available demonstrated control technology for all pollutants (*i.e.,* conventional, non-conventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly-owned treatment works (POTWs), including sludge disposal methods at POTWs. Pretreatment standards for existing sources are technology-based and are analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for the implementation of national pretreatment standards, are found at 40 CFR 403.

6. Pretreatment Standards for New Sources (PSNS)—Section 307(c) of the CWA

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

B. Pollution Prevention Act

The Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 *et seq.,* Public Law 101–508, November 5, 1990) ''declares it to be the national policy of the United States that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever

feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort * * *'' (Sec. 6602; 42 U.S.C. 13101 (b)). In short, preventing pollution before it is created is preferable to trying to manage, treat or dispose of it after it is created. The PPA directs the Agency to, among other things, ''review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction'' (Sec. 6604; 42 U.S.C. 13103(b)(2)). EPA reviewed this effluent guideline for its incorporation of pollution prevention.

According to the PPA, source reduction reduces the generation and release of hazardous substances, pollutants, wastes, contaminants, or residuals at the source, usually within a process. The term source reduction ''include[s] equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control. The term 'source reduction' does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to or necessary for the production of a product or the providing of a service.'' 42 U.S.C. 13102(5). In effect, source reduction means reducing the amount of a pollutant that enters a waste stream or that is otherwise released into the environment prior to out-of-process recycling, treatment, or disposal.

In these final regulations, EPA supports pollution prevention technology by including pollution prevention in its technology basis for today's limitations and new source performance standards. This includes water conservation and re-use of lubricants and solvents.

C. Section 304(m) Requirements

Section 304(m) of the CWA, added by the Water Quality Act of 1987, requires EPA to establish schedules for: (1) Reviewing and revising existing effluent limitations guidelines and standards; and (2) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (*see* 55 FR 80), in which schedules were established for developing new and revised effluent guidelines for several industry categories, including the metal products and machinery industry. Natural Resources Defense Council, Inc., and Public Citizen, Inc., challenged the Effluent Guidelines Plan in a suit filed in the U.S. District Court for the District of Columbia, (*NRDC et al.,* v. *Browner,* Civ. No. 89–2980). On January 31, 1992, the Court entered a consent decree (the ''304(m) Decree''), which establishes schedules for, among other things, EPA's proposal and promulgation of effluent guidelines for a number of point source categories. The consent decree, as amended, requires EPA to take final action on the Metal Products and Machinery effluent guidelines by February 14, 2003.

III. Metal Products & Machinery Effluent Guidelines Rulemaking History

A. 1995 and 2001 Proposed Regulations

On May 30, 1995, EPA published a proposal entitled, ''Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Metal Products and Machinery'' (*see* 60 FR 28210). Throughout today's preamble, EPA refers to this 1995 proposal as the ''Phase I'' or the ''1995'' proposal for the Metal Products and Machinery industry. To make the regulation more manageable, EPA initially divided the industry into two phases based on industrial sectors. The Phase I proposal included the following industry sectors: Aerospace; Aircraft; Electronic Equipment; Hardware; Mobile Industrial Equipment; Ordnance; and Stationary Industrial Equipment. At that time, EPA planned to propose a rule for the Phase II sectors approximately three years after the MP&M Phase I proposal. Phase II sectors included: Bus & Truck, Household Equipment, Instruments, Job Shops, Motor Vehicles, Office Machines, Precious Metals and Jewelry, Printed Wiring Boards, Railroad, Ships and Boats, and Miscellaneous Metal Products.

EPA received over 350 public comments on the Phase I proposal. One area where commentors from all stakeholder groups (*i.e.,* industry, environmental groups, regulators) were in agreement was that EPA should not divide the industry into two separate regulations. Commentors raised concerns regarding the regulation of similar facilities with different compliance schedules and potentially different limitations solely based on whether they were in a Phase I or Phase II MP&M industrial sector. Furthermore, many facilities performed work in multiple sectors. In such cases, permit writers and control authorities (*e.g.,* POTWs) would need to decide which MP&M rule (Phase I or II) applied to a facility. EPA's responses to comments can be found in section 20.3 of the docket for the rule.

Based on these comments, EPA published a new proposal on January 3, 2001 (*see* 66 FR 424) which completely replaced the 1995 proposal. Throughout this preamble, EPA refers to this proposal as the ''2001'' proposal for the Metal Products and Machinery industry. In that notice, EPA proposed to establish new limitations and standards for approximately 10,000 facilities in the 18 industrial sectors (without any designation of ''Phase I'' or ''Phase II''). EPA also divided the industry into eight regulatory subcategories: General Metals, Metal Finishing Job Shops, Printed Wiring Board, Non-Chromium Anodizing, Steel Forming & Finishing, Oily Wastes, Railroad Line Maintenance, and Shipbuilding Dry Docks (*see* 66 FR 439 for a discussion on the development of EPA's proposed subcategorization scheme).

EPA found two basic types of waste streams in the industry: (1) Wastewater with high metals content (metal-bearing); and (2) wastewater with low concentration of metals, and high oil and grease content (oil-bearing). When looking at facilities generating metal-bearing wastewater (with or without oil-bearing wastewater), EPA identified five groups of facilities that could potentially be subcategorized by dominant product, raw materials used, and/or nature of the waste generated (*i.e.,* General Metals, Metal Finishing Job Shops, Printed Wiring Board, Non-Chromium Anodizing, and Steel Forming & Finishing). When evaluating facilities with only oil-bearing wastewater for potential further subcategorization, EPA identified two types of facilities (*i.e.,* Railroad Line Maintenance and Shipbuilding Dry Docks) that were different from the other facilities in the Oily Wastes subcategory based on size, location, and dominant product or activity. This subcategorization scheme allowed EPA to more accurately assess various technology options in terms of compliance costs, pollutant reductions, benefits, and economic impacts.

EPA proposed new limitations and standards for direct dischargers in all eight MP&M subcategories and proposed pretreatment standards for all indirect dischargers in three subcategories (*i.e.,* Metal Finishing Job Shops, Printed Wiring Board, and Steel Forming & Finishing); pretreatment standards for facilities above a certain wastewater flow volume in two subcategories (*i.e.,* General Metals and Oily Wastes); and no national pretreatment standards for facilities in three subcategories (*i.e.,* Non-Chromium

Anodizing, Railroad Line Maintenance, and Shipbuilding Dry Docks). EPA received over 1500 comment letters on the 2001 proposal. EPA's responses to the comments can be found in section 20.3 of the rulemaking.

B. June 2002 Notice of Data Availability

On June 5, 2002, EPA published a Notice of Data Availability (NODA) at 67 FR 38752. In the NODA, EPA discussed major issues raised in comments on the 2001 proposal; suggested revisions to the technical and economic methodologies used to estimate compliance costs, pollutant loadings, and economic and environmental impacts; presented the results of these suggested methodology changes and incorporation of new (or revised) data; and summarized the Agency's thinking on how these results could affect the Agency's final decisions.

The NODA also included a discussion of possible alternative options for certain subcategories based on comments, including an Environmental Management System (EMS) alternative in lieu of part 438 limitations and standards, and a discussion of ''upgrading'' facilities currently regulated under the Electroplating regulations (40 CFR part 413) to meet the Metal Finishing regulations (40 CFR part 433) (*see* 67 FR 38797). Finally, the NODA included preliminary revised effluent limitations and pretreatment standards for all eight proposed subcategories. EPA received over 300 comment letters on the NODA. EPA's responses to the comments can be found in section 20.3 of the docket for the rule.

IV. Summary of Significant Decisions

As the previous discussion of the development of this regulation explains, EPA proposed regulating discharges associated with a number of different operations in the MP&M industry. Thus, EPA proposed regulations that would have established new limitations and standards for approximately 10,000 facilities in 18 industrial sectors that EPA subcategorized in eight subcategories. Following its consideration of comments submitted to EPA as well as intensive scrutiny of the data used to develop the proposal, EPA has determined that it should only finalize regulations for the Oily Wastes subcategory. These regulations would affect approximately 2,400 facilities. The following material explains EPA's decisions underlying today's regulation. It discusses significant issues considered by EPA or raised by commentors on the May 1995 and January 2001 proposed rules and June 2002 NODA, and how EPA has resolved these issues in today's final rule.

A. Decisions Regarding the Content of the Regulation

The following discussion describes how EPA has subcategorized this industry in developing limitations and standards, and EPA's decisions about whether to subject particular subcategories to limitations and standards. It also identifies the pollution control technology EPA used as the basis for establishing limitations and standards. Next, this section discusses the applicability of the rule to iron and steel operations and to ''oily operations.'' The section also looks at the regulated pollutants and describes EPA decisions concerning the use of a ''pollution prevention'' alternative for complying with the final rule.

1. Subcategorization Structure

The CWA requires EPA, in developing effluent limitations guidelines and pretreatment standards that reflect the best available technology economically achievable to consider a number of different factors. Among others, these include the age of the equipment and facilities in the category, manufacturing processes employed, types of treatment technology to reduce effluent discharges, and the cost of effluent reductions (section 304(b)(2)(b) of the CWA, 33 U.S.C. 1314(b)(2)(B)). The statute also authorizes EPA to take into account other factors that the Administrator deems appropriate.

One way in which the Agency has taken some of these factors into account is by breaking down categories of industries into separate classes of similar characteristics. This recognizes the major differences among companies within an industry that may reflect, for example, different manufacturing processes or wastewater characteristics. One result of subdividing an industry by subcategories is to safeguard against overzealous regulatory standards, increase the confidence that the regulations are practicable, and diminish the need to address variations between facilities through a variance process (*Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1053 (D.C. Cir. 1978)).

As discussed in section III.A of today's final rule, in 2001 EPA proposed to divide the MP&M industry into eight regulatory subcategories based on the manufacturing, maintenance or rebuilding operations performed at a facility (called ''unit operations'' in this preamble): General Metals, Metal Finishing Job Shops, Printed Wiring Board, Non-Chromium Anodizing, Steel Forming & Finishing, Oily Wastes, Railroad Line Maintenance, and Shipbuilding Dry Docks. Based on comments submitted on the proposed rule and NODA, EPA has refined today's final subcategorization structure for the analyses performed to support today's final rule. For the purposes of analyzing issues in developing the final rule, EPA retained the eight subcategory structure, but altered the placement of some operations within certain subcategories. For example, the subcategorization approach that EPA has used for analyses supporting today's final rule incorporates printed wiring board job shops in the Printed Wiring Board subcategory (as opposed to the Metal Finishing Job Shop subcategory, as proposed) and places printed wiring assembly facilities in the General Metals subcategory (*see* 67 FR 38756).

As discussed in the NODA, EPA also considered an additional subcategory for facilities that primarily perform zinc electroplating (''zinc platers''). Depending on whether or not these facilities operate as a captive or a job shop, EPA had proposed to include them as part of the General Metals or Metal Finishing Job Shop subcategories, respectively. The NODA explained that EPA was also considering: (1) Creating a separate subcategory for zinc platers; (2) segmenting zinc platers within the General Metals and Metal Finishing Job Shop subcategories for zinc platers; or (3) retaining the proposed subcategory structure and establishing numerical limitations and standards for zinc that would be achievable by zinc platers (*see* 67 FR 38756). Commentors on the NODA supported retaining the proposed subcategories as long as the record demonstrated that zinc platers could achieve the zinc numerical limitations and standards. They raised concerns that creating a separate subcategory or segment to address the limitations for one pollutant would be confusing and difficult to implement. EPA did not create a separate subcategory or segment for zinc platers in evaluating the data for the final rule. These zinc platers remain subject to parts 413 and/or 433.

Also, as discussed in the NODA, EPA considered establishing the Steel Forming and Finishing subcategory for wastewater discharges resulting from: (1) Steel forming and finishing operations (*e.g.,* cold forming on steel wire, rod, bar, pipe, and tube); and (2) continuous electroplating of flat steel products (*e.g.,* strip, sheet, and plate). EPA re-examined its database for facilities that perform continuous steel electroplating, and found that, contrary to its initial finding, continuous electroplaters do not perform operations similar to other facilities in this

subcategory (*i.e.,* steel forming and finishing facilities performing cold forming on steel wire, rod, bar, pipe, and tube). Thus, EPA included continuous electroplaters performing electroplating and coating operations in the General Metals subcategory for analyses supporting today's final rule.

Finally, as explained in section IV.B, based on comments and revisions to analytical databases, the Agency re-evaluated its technical and economic analyses for the final rule. EPA performed its re-evaluation of all proposed subcategories. As a result of this assessment, EPA decided to only establish effluent guidelines for the Oily Wastes subcategory.

2. Summary of Regulatory Decisions

The analyses for today's final rule incorporate database changes, additional data, and methodological changes as discussed in the NODA and in section IV.B of today's preamble. Based on EPA's analyses for today's final rule, EPA is establishing limitations and standards for one of the subcategories listed in the January 2001 proposed rule. For others, EPA has concluded that national limitations and standards are not warranted. In addition, EPA is not establishing pretreatment standards for existing or new sources for any of the subcategories in today's rule. Some of today's limitations and standards are based on the technology options that formed the basis for the proposal while others are based on modified technology options.

Table IV–1 Summarizes EPA's decisions for each subcategory considered for today's final rule and each regulatory level. Each of these decisions is further detailed in section VI of today's final rule.

TABLE IV–1.—SUMMARY OF FINAL REGULATORY DECISIONS

Subcategory considered	Final regulation		Section of today's final rule
	Discharger status (regulatory level)	Selected technology option	
General Metals	Direct Dischargers (BPT/BCT/BAT/NSPS)	No new or revised limitations or standards established.	VI.A.1–4
	Indirect Dischargers (PSES/PSNS)	No new or revised standards established	VI.A.5–6
Metal Finishing Job Shop	Direct Dischargers (BPT/BCT/BAT/NSPS)	No revised limitations or standards established.	VI.B.1–2
	Indirect Dischargers (PSES/PSNS)	No revised standards established	VI.B.3–4
Printed Wiring Board	Direct Dischargers (BPT/BCT/BAT/NSPS)	No revised limitations or standards established.	VI.C.1–2
	Indirect Dischargers (PSES/PSNS)	No revised standards established	VI.C.3–4
Non-Chromium Anodizing	Direct Dischargers (BPT/BCT/BAT/NSPS)	No revised limitations or standards established.	VI.D.1–2
	Indirect Dischargers (PSES/PSNS)	No revised standards established	VI.D.3
Steel Forming & Finishing	Direct Dischargers (BPT/BCT/BAT/NSPS)	No revised limitations or standards established.	VI.E.1–2
	Indirect Dischargers (PSES/PSNS)	No revised standards established	VI.E.3–4
Oily Wastes	Direct Dischargers (BPT/BCT/NSPS)	Pollution Prevention + Chemical Emulsion Breaking + Oil-Water Separation (Option 6).	VI.F.1–4
	Indirect Dischargers (PSES/PSNS)	No standards established	VI.F.5–6
Railroad Line Maintenance	Direct Dischargers (BPT/BCT/BAT/NSPS)	No limitations or standards established	VI.G.1–4
	Indirect Dischargers (PSES/PSNS)	No standards established	VI.G.5
Shipbuilding Dry Dock	Direct Dischargers (BPT/BCT/BAT/NSPS)	No limitations or standards established	VI.H.1
	Indirect Dischargers (PSES/PSNS)	No standards established	VI.H.2

3. Summary of Significant Applicability Decisions

a. Applicability of MP&M to Certain Iron and Steel Operations

EPA received comment regarding the inclusion of certain operations now subject to the Iron & Steel effluent guidelines (40 CFR part 420) within the proposed MP&M effluent guidelines. In the proposed MP&M rule, EPA refers to facilities with these operations as the Steel Forming & Finishing subcategory. Specifically, EPA proposed to move operations that produce finished products such as bars, wire, pipe and tubes, nails, chain link fencing, and steel rope into the MP&M rule (as the Steel Forming & Finishing subcategory) from stand-alone facilities, as well as from facilities that also have other operations that are currently regulated by the Iron & Steel effluent guidelines (*i.e.,* facilities that are making steel and producing wire and wire products and are subject to both ELGs through the combined wastestream formula).

Commentors stated that these operations and resulting wastewaters are comparable to those at facilities subject to the Iron and Steel Manufacturing effluent guidelines and that these discharges should remain subject to part 420 rather than today's rule. In addition, commentors stated that part 420 adequately protects the environment from discharges associated with these activities. Based on its analyses for this final rule, EPA has determined that limitations and standards for the proposed Steel Forming & Finishing subcategory based on MP&M Option 2 technology are not economically achievable. Therefore, today's final rule does not establish a Steel Forming & Finishing subcategory and accompanying limitations and standards. Thus, wastewaters generated by these operations remain subject to the Iron & Steel Manufacturing effluent limitations guidelines and standards (40 CFR part 420). Also, as discussed in section IV.A.1, EPA included continuous electroplaters in the General Metals subcategory for analyses supporting today's final rule.

b. Applicability to Certain Oily Operations

Today's final rule revises the proposed definition of ''oily operations'' by including additional operations (*see* 67 FR 38765). EPA is incorporating into the definition of ''oily operations'' the following unit operations and any associated rinses:

- Abrasive blasting;
- Adhesive bonding;
- Alkaline treatment without cyanide;
- Assembly/disassembly;

- Burnishing;
- Calibration;
- Electrical discharge machining;
- Iron phosphate conversion coating;
- Painting-spray or brush (including water curtains);
- Polishing;
- Thermal cutting;
- Tumbling/barrel finishing/mass finishing/vibratory finishing;
- Washing (finished products);
- Welding; and
- Wet air pollution control for organic constituents

EPA notes that this revision to the oily operations definition has the effect of moving 1,550 facilities from the General Metals subcategory to the Oily Wastes subcategory. See section V.B for the complete list of oily operations subject to regulation in today's final rule.

In addition, as discussed in the NODA, EPA is removing ''laundering'' from the definition of oily operations (*see* 67 FR 38766). EPA does not consider wastewater discharges from laundering (*e.g.,* uniforms) at MP&M facilities to be process wastewater under the MP&M final rule. The inclusion of laundering in the proposed definition of oily operations was an oversight which the Agency has now corrected for the final rule.

At proposal, EPA excluded bilge water (or any other wastewater) from ships that are afloat from the scope of the rule; however, bilge water was inadvertently included in the oily operations definition in the NODA (*see* 67 FR 38765). Today's final rule corrects this and removes bilge water from the definition of oily operations. Because EPA is not promulgating limitations and standards for the Shipbuilding Dry Dock subcategory, EPA also does not consider bilge water from ships in a dry dock or similar structure (*e.g.,* graving docks, building ways, marine railways and lift barges) a MP&M process wastewater.

c. Applicability to Certain Metal Drum Reconditioning and Cleaning Operations

At proposal EPA considered whether it should include wastewater generated from unit operations performed by drum reconditioners/cleaners to prepare metal drums for resale, reuse, or disposal in this rulemaking. These operations include chaining, caustic washing, acid cleaning, acid etching, impact deformation, leak testing, corrosion inhibition, shot blasting, and painting. In EPA's ''Preliminary Data Summary for Industrial Container and Drum Cleaning Industry'' (EPA–821–R–02–011), EPA did not identify any metal drum reconditioning or cleaning facilities that discharge directly to surface waters. The Agency estimates that the drum reconditioning facilities are either indirect or zero or alternative dischargers.

EPA solicited comment on whether these facilities would be more appropriately covered under the MP&M rule or under a new industrial category of effluent guidelines for drum reconditioners (*see* 66 FR 434). Commentors stated that these operations should not be subject to MP&M because drum reconditioning/cleaning wastewaters are more variable than MP&M wastewaters. EPA reviewed its database on drum reconditioning operations and wastewater characteristics. EPA found that its database is insufficient to evaluate the technical and economic achievability of the options considered for today's final rule. Therefore, EPA is not including drum reconditioning and cleaning operations as within the scope of this final rule.

4. Environmental Management Systems and the Pollution Prevention Alternative

In the proposed rule, EPA discussed the use of a compliance alternative (*i.e.*, the Pollution Prevention Alternative) for indirect dischargers in the Metal Finishing Job Shop (MFJS) subcategory (*see* 66 FR 511). The Pollution Prevention (P2) Alternative would act as a voluntary incentive for MFJS indirect dischargers that agreed to perform specific best management/pollution prevention practices. These MFJS indirect dischargers would be allowed to meet the pretreatment standards of part 433 in lieu of meeting the more stringent pretreatment standards of the proposed MP&M rule. Because EPA is not promulgating pretreatment standards that are more stringent than those in part 433 or part 413 for those facilities covered by part 413 pretreatment standards, EPA is not promulgating today the use of a compliance alternative for metal finishing job shops. EPA notes that many metal finishing jobs shops are currently employing best management/pollution prevention practices similar to those described in the proposal as part of the National Metal Finishing Strategic Goals Program.

As discussed in the NODA (*see* 67 FR 38798), EPA also considered an industry suggested alternative for the General Metals subcategory based on the use of an Environmental Management System (EMS) to mitigate economic impacts associated with today's rule. Similar in concept to the Pollution Prevention Alternative previously discussed, the EMS compliance alternative would act as a voluntary incentive for facilities that implemented an EMS which would include specific monitoring, controls, and recordkeeping. These facilities would be allowed to meet the limitations and standards of part 433 in lieu of meeting the more stringent limitations and standards of the proposed MP&M rule.

EPA received several comments on the EMS compliance alternative. Some commentors were in favor of the EMS compliance alternative and stated that: (1) The EMS compliance alternative is an innovative tool for continually enhancing environmental regulation; (2) an EMS does not replace the need for regulatory enforcement, but can be used as a tool to enhance a facility's environmental performance; and (3) requiring ISO 14001 adds another level of compliance assurance due to independent third party auditing. Other commentors were not in favor of this EMS compliance alternative and stated that: (1) The administrative and enforcement burden for pretreatment control authorities would be excessive as it could result in protracted discussions regarding the adequacy of the EMS; and (2) the EMS compliance alternative is overly restrictive and does not allow for variability found among MP&M industries and the POTWs to which they discharge. In particular, commentors noted that requiring ISO 14001 certification is extremely expensive and would have the effect of rendering this option untenable for any small business and many larger businesses as well.

EPA encourages the wide spread use of EMSs across a range of organizations and settings, with particular emphasis on adoption of EMSs to achieve improved environmental performance and compliance, pollution prevention through source reduction, and continual improvement (*see* EPA Position Statement on Environmental Management Systems, May 15, 2002, DCN 17848, section 24.4). However, EPA is not promulgating an EMS-based compliance alternative for facilities in the General Metals subcategory as EPA is not promulgating limitations and standards for the General Metals subcategory (*see* section VI.A).

B. Decisions Regarding Methodology

Sections 11 and 12 of the TDD provide detailed description of the methodologies used to develop compliance cost estimates and pollutant reductions for this final MP&M regulation. In addition, the EEBA for the final rule provides a detailed description of the economic impacts

and environmental benefits analyses and methodologies. This section of today's final rule summarizes the changes to the EPA Cost & Loadings Model and the changes in the economic impacts and benefits analyses methodologies. This section also discusses EPA's decisions regarding selection of facilities with ''BAT'' treatment technologies.

1. Changes to the EPA Cost & Loadings Methodology for MP&M Options

a. General Methodology Changes

Based on comments to the proposed rule and considerations discussed in the NODA (*see* 67 FR 38756), EPA made significant changes to the EPA Cost & Loadings Model used to estimate compliance costs and pollutant reductions at the national level for the technology options considered for today's final rule. EPA included all of the changes identified in the NODA (*e.g.,* review of survey discharge status and reviewed additional industry-supplied data) into the analyses for the final rule. EPA also stated in the NODA that we would also examine other potential changes in response to comments after publication of the NODA but before the final rule (*see* DCN 17804, section 16.0). This section provides additional information on EPA's final analyses with respect to these potential changes and any changes identified by NODA comments.

b. Assignment of Treatment-in-Place (TIP) Credit

EPA developed a computerized Cost & Loadings Model to estimate compliance costs and pollutant loadings for the various technology options. EPA estimates the baseline pollutant loadings (*i.e.,* pollutant loading prior to compliance with the MP&M regulations) from model facilities based on actual TIP at those facilities as determined by the site's response to EPA's questionnaire. EPA calculates the pollutant loads removed by the technology option under consideration as the difference between the pollutant loadings estimated for the option and the pollutant loadings estimated for the baseline conditions.

In general, commentors stated that EPA failed to extend proper TIP credit to facilities in the MP&M survey questionnaire database and overestimated pollutant discharge loadings. Based on comments received on the proposal and NODA, EPA has re-evaluated its assignment of TIP credit used for estimating baseline pollutant loadings for the final rule and has concluded that additional technologies are equivalent (or better than) the BAT technology options in the proposal and the NODA.

In the NODA, EPA assumed that end-of-pipe ion exchange would achieve cyanide removals equivalent to alkaline chlorination, a proposed BAT technology basis. Therefore, EPA set cyanide treatment credit for process lines with ion exchange as equivalent to alkaline chlorination. Commentors requested that EPA also provide credit for in-process ion exchange for cyanide removal and for metals removal. EPA reviewed the information supporting these comments and concluded that ion exchange, whether in-process or end-of-pipe would provide pollutant reductions that are equivalent to the corresponding BAT technology option. Therefore, for the analyses supporting the final rule, EPA provided TIP credit for all streams receiving end-of-pipe or in-process ion exchange treatment for cyanide and metals.

EPA also reviewed its NODA assumptions regarding TIP credit for gravity thickening and filter presses. In the NODA, EPA assumed that facilities with sludge thickening or a filter press had both components in place. Upon closer review of the survey questionnaires, EPA finds that facilities may pump their sludge directly from a clarifier to a filter press without using a sludge thickening step. Consequently, EPA no longer assumes all facilities using filter presses also operate gravity thickeners. EPA notes that it is equating ''sludge thickening tanks'' and ''sludge dryers'' with gravity thickening. For facilities indicating only gravity thickening or filter press, EPA has estimated costs associated with the addition of the necessary equipment.

At proposal EPA did not assume that facilities that indicated some form of oily wastewater treatment (*e.g.,* oil-water separator) would be performing chemical emulsion breaking (and receive TIP credit for chemical emulsion breaking) prior to oil water separation if they have emulsified oils. For the final rule analyses, EPA reviewed all questionnaires to ensure that the same TIP assignments were given to Phase I and Phase II questionnaire facilities. Based on this review, EPA is assuming for the final rule that facilities that indicated some form of oily wastewater treatment (*e.g.,* oil-water separator) are performing chemical emulsion breaking prior to oil-water separation if they have emulsified oils.

c. Pollutant Loadings Baseline for MP&M Options for Metal-Bearing Wastewater Subcategories

EPA received many comments on its estimation of baseline pollutant loadings and reductions for the various options. For treated streams, EPA estimated zero pollutant removals for pollutants that are already present in low concentrations (*i.e.,* are present at a concentration below the technology option long term average (LTA). For untreated streams, EPA estimated baseline loadings and pollutant removals based on unit operation pollutant concentrations, and did not adjust for local or Federal regulatory limits on the facility. Many commentors were concerned that EPA's use of unit operation-specific average concentrations to model the concentration of untreated wastewater streams would overestimate current pollutant loadings at facilities, particularly those currently regulated by parts 413 or 433 and at facilities that do not treat their wastewaters due to low initial concentrations. In the NODA, EPA presented information on corrections and other revisions made to the costs and pollutant loadings model, and solicited comment on a sensitivity analysis which assumed at baseline that all MP&M facilities currently regulated by existing effluent guidelines (*i.e.*, 40 CFR parts 413 and 433) are not discharging pollutant concentrations above their applicable effluent limitations guidelines and standards (*see* 67 FR 38762).

For the final rule, EPA implemented two strategies to estimate baseline loadings and removals more accurately for untreated, low concentration streams at model facilities. First, EPA evaluated discharge monitoring report (DMR) data available for direct discharger model facilities. If all pollutant concentrations measured, as indicated from the DMR data, were below the technology option limits, EPA estimated zero pollutant removals for the model facility. Second, EPA considered regulatory limits on the model facility. EPA assumed the pollutant concentrations discharged from each stream at sites regulated under part 433 were at least meeting the monthly average limits set by part 433.

Table IV–2 summarizes the new method and how EPA estimated baseline pollutant concentrations for its pollutant reduction estimates associated with the final rule MP&M technology options.

TABLE IV–2.—CURRENT POLLUTANT CONCENTRATIONS USED TO ESTIMATE POLLUTANT REDUCTIONS ASSOCIATED WITH THE MP&M TECHNOLOGY OPTIONS

	433 regulated parameters	433 unregulated parameters
Treated Wastewater Streams	LTAs from part 433	LTAs from Technology Option 2 of Today's rule.
Untreated Wastewater Streams Regulated by 413 or 433.	Monthly Average Limitations from part 433	Concentrations from Subcategory-Specific Unit Operations Data.
Untreated Wastewater Not Regulated by 413 or 433.	Concentrations from Subcategory-Specific Unit Operations Data.	Concentrations from Subcategory-Specific Unit Operations Data.

Note: See Section VI and Section 9 of the TDD for further discussion of Technology Option 2.
Note: EPA assigns Option 2 LTAs to all wastewater streams for all pollutant to model facilities TIP equal to or greater than BAT treatment

For the final rule, EPA assumed that facilities currently treating their wastewater discharges (regardless of their regulatory status) operate their wastewater treatment systems to achieve the long-term average concentrations of the part 433 regulations. Furthermore, in the case of pollutants of concern not regulated in part 433, EPA made the conservative assumption that facilities with wastewater treatment operate their wastewater treatment systems to achieve the long-term average concentrations for such pollutants from MP&M Option 2 (*see* section VI and section 9 of the TDD for further discussion of Technology Option 2).

For untreated streams at facilities currently regulated by parts 413 or 433 for the parameters regulated by part 433, EPA assumed for its evaluations for the final rule that facilities achieve the monthly average limitation of part 433. As discussed in the NODA, EPA concluded it is appropriate to use the monthly average limitation, as opposed to the long-term average concentration, for streams that are not being treated or for parameters that are not being targeted for treatment. Finally, for untreated streams (regardless of regulatory status) for the parameters not regulated by part 433, and for regulated parameters for untreated streams at facilities not subject to parts 413 or 433, EPA has assumed the baseline concentrations are equivalent to the raw waste load using subcategory-specific unit operations data.

For all direct discharging facilities in the General Metals subcategory, EPA has assumed the facilities achieve permit limits for non-conventional pollutants Chemical Oxygen Demand (COD), Total Kjeldahl Nitrogen (TKN), and Ammonia as Nitrogen (NH_3-N). EPA received several comments that the Agency overestimated concentrations of COD. While this parameter is not regulated by Parts 413 or 433, comments stated that it is typically regulated in National Pollutant Discharge Elimination System (NPDES) permits. Additionally, EPA notes that COD removals had a significant impact on the cost and removal comparison ratio ($/lb-removed) for the General Metals subcategory. While these parameters are also not regulated by Parts 413 or 433, limits for these parameters are found in EPA's Permit Compliance System (PCS). To reduce overestimation of pollutant removals for COD, TKN, and NH_3-N, EPA did not allow the pollutant concentrations discharged from the facility to exceed permit limits. EPA modeled the limits based on data from EPA's Permit Compliance System (PCS) for these types of facilities. Because EPA could not determine which sites in PCS were MP&M sites, for the purposes of this analysis, EPA calculated the average permit limit concentrations for process wastewater discharged from each facility in the 3000 series of SIC codes. Based on these data, EPA set the maximum concentration for the commingled MP&M wastewater discharged from each model site at 175, 35.67, and 19.3 milligrams per liter (mg/L) for COD, TKN, and NH_3-N, respectively (*see* DCN 17846, section 24.7).

d. Unit Operations Data

EPA used unit operations data from the questionnaires, sampling episodes, and commentors data, to estimate baseline pollutant loading for some untreated wastewaters at certain facilities. As described in section IV.B.1, and as discussed in the NODA (*see* 67 FR 38756), in response to proposal commentors, EPA changed its proposal methodology to account for subcategory-specific differences in pollutant concentrations for the same unit operations. EPA received additional comments on the unit operations data from commentors on the NODA. In particular, comments on the NODA focused on three specific areas: (1) Requests to subdivide the ''testing'' unit operation to better reflect various types of testing wastewaters; (2) requests to remove additional ''outliers'' from the data set used to estimate the average pollutant concentrations for certain unit operation; and (3) requests to re-evaluate the ratio of pollutant concentrations in unit operation baths and the corresponding rinse. For direct dischargers, EPA also compared the baseline pollutant loadings from the pollutant loading model to available Discharge Monitoring Report (DMR) data (*see* section IV.B.2.b).

For the proposed rule, EPA combined testing unit operations from wastewater sampling of hydraulic testing, hydrostatic testing, dye penetrant testing, and alpha-case detection into a single pollutant concentration set for the ''testing'' unit operation (UP–42). Commentors explained that EPA should not group all testing operations together because these operations produce non-similar wastewaters. For example, commentors noted that dye penetrant testing produces wastewater with high pollutant concentrations while hydrostatic testing produces wastewater with low pollutant concentrations, but very large flows.

For today's final rule, EPA re-evaluated its data sets. EPA has concluded that it should divide the testing unit operations into subcategory-specific unit operations. Furthermore, EPA found no clear indication that facilities continue to perform alpha-case detection. Consequently, EPA's final database included separate, subcategory-specific data for two testing operations: Hydrostatic and dye penetrant. EPA reviewed each survey questionnaire and made a case-by-case determination of which of the two types of testing is being performed at a site (if any). See section 12 of the TDD for more information.

EPA has also addressed commentors concerns regarding the ratio of pollutant concentrations in unit operation baths (*e.g.,* electroplating baths) and their corresponding rinses. EPA has reviewed all bath-rinse pairs and ensured for the final analysis that the data used do not include any cases where a rinse is more concentrated than its bath.

e. Site-Specific Data Revisions for Survey Facilities

EPA revised its questionnaire database to reflect detailed comments provided about specific facilities in EPA's questionnaire database. EPA uses information about facilities in the questionnaire database to estimate various costs and benefits (*e.g.*, compliance costs, pollutant reductions, economic impacts, non-water quality environmental impacts). For example, in some cases facilities that did not provide flow or production data for certain wastestreams at the time they submitted their questionnaire provided such information in their comments on the proposal or NODA. In other cases, facilities provided updated information about their: (1) Unit operations (*e.g.*, whether they currently have these UPs); (2) regulatory status (*e.g.*, whether they were currently covered by parts 413 or 433 regulations); (3) wastewater discharge status (*i.e.*, direct, indirect, or zero discharger); and (4) wastewater treatment technology.

As noted in section 3 of the TDD, EPA conducted several surveys, with the two major surveys occurring in 1990 and 1996. For proposal and NODA analyses EPA used both 1990 and 1996 as reference years to estimate costs and benefits associated with the various regulatory options. These two survey efforts provided information about the MP&M industry at two different times (*i.e.*, 1990 and 1996). Commentors suggested that EPA rely on more recent information and gave specific comments updating information concerning some facilities surveyed in the Phase I survey effort. EPA is using the later survey year, 1996, as the base year for the questionnaire database to more accurately reflect current conditions in the MP&M industry. EPA incorporated information about specific facilities from commentors into the questionnaire database when the information reflected facility conditions at or prior to 1996.

EPA did not incorporate information from commentors into its questionnaire database when the information reflected facility conditions post-1996. When commentors provided post-1996 information, EPA did, however, use this information for a sensitivity analysis for all subcategories where it is promulgating limitations or new source standards to assess recent trends in the industry. See DCN 17843, section 24.6.2, of the record for results and discussion of this sensitivity analysis.

f. Site Discharge Destination

EPA solicited comment in the NODA on its methodology for categorizing a facility as either a direct discharger (to surface water), an indirect discharger (to a POTW), or a zero or alternative discharger (no wastewater is discharged) based on its questionnaire database. Facilities that are zero or alternative dischargers do not incur costs to comply with the regulation. For the January 2001 proposal and NODA, EPA identified direct dischargers as facilities that discharge any MP&M process wastewater to surface waters and calculated compliance costs and pollutant loadings and reductions for all MP&M process wastewaters as direct discharges. Commentors said that EPA should alter its methodology to allow facilities multiple discharge destinations rather than only assign a facility to a single category or discharge destination (*i.e.*, allow facilities with some streams discharging to a POTW and other streams to surface waters). Commentors also noted that EPA had misclassified some indirect dischargers as direct dischargers and provided examples.

EPA agrees with commentors that its methodology should address facilities with multiple wastewater discharge destinations. Consequently, EPA revised its methodology for the final rule to allow facilities that have multiple discharge destinations to be ''split.'' For the purposes of estimating compliance costs and pollutant reductions, ''splitting'' a site means that EPA runs only those process wastewater streams that are discharged to the POTW through the EPA Cost & Loadings Model for indirect dischargers and runs only those process wastewater (not stormwater) streams that are discharged directly to surface waters through the model for direct dischargers. In addition to those facilities identified by commentors, EPA reviewed survey questionnaires for all facilities with multiple discharge destinations to determine if they should be designated as direct, indirect, or split (*see* DCN 17825, section 24.6.2).

In addition, in response to the comments that EPA incorrectly classified some facilities as direct dischargers, EPA also reviewed survey questionnaires for all facilities it had previously designated as direct to confirm their discharge status (*see* DCN 17826, section 24.6.2). This review altered the discharge status of a number of facilities (*see* section 11 of the final TDD for additional discussion of EPA's review). EPA's databases for the final rule reflects these changes. EPA also reviewed all direct discharges to ensure that EPA did not consider stormwater as a MP&M process wastewater in its analysis of compliance costs and pollutant loadings.

g. Monitoring Costs

EPA revised its monitoring cost estimate for today's final rule to reflect the final list of regulated pollutants and monitoring frequencies. For example, as discussed in section IV.B of the NODA (*see* 67 FR 38767) and section 7 of the TDD, EPA is not regulating total sulfide, molybdenum, manganese, tin, or toxic organics. See section 11 of the TDD for today's final rule for a detailed discussion of EPA's monitoring cost estimates for each subcategory.

2. Methodology for Determining Cost & Loadings for the 433 Upgrade Options

In the NODA, EPA also discussed alternative options, ''413 to 433 Upgrade Option'' and ''All to 433 Upgrade Option,'' and an associated simplified cost and loadings analysis for these upgrade options. EPA provided estimates of compliance costs, pollutant reductions, economic impacts and cost-effectiveness based on this simplified analysis. For today's final rule, EPA revised its upgrade option methodology and performed a more detailed analysis of compliance costs and pollutant reductions, incorporating many of the comments received on the NODA as previously discussed.

a. Determining Regulatory Status

EPA reviewed the regulatory status for each survey questionnaire (*i.e.*, to confirm whether a given facility was currently regulated by part 413, part 433, both, or neither). Based on the applicability section of part 413 and 433 (*see* 40 CFR 413.01 and 433.11(c) and (d)), EPA concluded that currently all surveyed facilities included in the database for the proposed Metal Finishing Job Shop and Printed Wiring Board subcategories are regulated by part 413 and/or part 433. EPA first used the date operations began at the facility (as reported in the survey questionnaire) to identify the appropriate regulation. EPA assumed a facility was subject to part 433 if it began operations after 1982 because part 413 only applies to indirect discharging facilities operating before 1982. Next, EPA reviewed effluent discharge data from the remaining facilities to determine if the facility was discharging MP&M process wastewater. Finally, for facilities for which EPA does not have effluent discharge data, EPA called the site or its control authority to determine the regulatory status.

b. Revised Methodology for Estimating Pollutant Loadings and Reductions: Upgrade Options

EPA developed a methodology to estimate the baseline pollutant loadings at facilities that would be affected by the upgrade: (1) facilities currently regulated by 413 only; and (2) facilities regulated by local limits or general pretreatment standards only (*i.e.*, ''local limits'' facilities). EPA also performed a sensitivity analyses on facilities regulated by both parts 413 and 433. Facilities ''regulated by local limits and general pretreatment standards only'' also include facilities regulated by other effluent guidelines except parts 413 or 433. EPA notes that facilities currently regulated by only part 433 would not be affected by the upgrade and EPA did not project pollutant removals or compliance costs for them.

EPA's pollutant loadings methodology also distinguishes between ''small'' and ''large'' platers currently regulated by part 413. Part 413 defines small platers as facilities discharging less than 10,000 gallons/day of process wastewater. When the part 413 regulations were promulgated, EPA made provisions to accommodate the economic condition of ''small'' platers by reducing the numbers of regulated metals and allowing an alternative requirements for cyanide, as amenable to alkaline chlorination instead of total cyanide. Consequently, EPA adjusted its pollutant loadings methodology for the upgrade options to account for the additional parameters that small platers would need to treat (*see* section 9 of the final TDD for details on EPA's methodology for small platers).

For treated streams at affected facilities, EPA revised methodology assumes the facilities operate their wastewater treatment systems to achieve the LTAs from part 413. This is consistent with EPA's guidance that facilities use LTAs (rather than limitations or standards) as a ''target'' to design their treatment systems. For untreated streams at affected facilities, EPA used the 4-day average limit for part 413. As discussed in the NODA, EPA concludes this is appropriate because these facilities are complying with existing standards at the end-of-pipe. In estimating toxic pollutant reductions for the upgrade options, EPA compared the baseline loadings for affected facilities to the resulting loadings if these affected facilities treated their wastewater to achieve the long-term average concentrations (for existing sources) for part 433.

For facilities in the General Metals subcategory that are not regulated by either part 413 or part 433 (*i.e.,* ''local limits facilities''), EPA altered its NODA methodology to incorporate actual local limits data and to include analysis of other pollutant parameters (*e.g.,* COD). Although EPA could not obtain actual local limits for all facilities, EPA gathered local limits data from 213 POTWs in 7 EPA Regions to develop national median local limit values. *See* DCN 17844, section 24.7, of the record for a listing of the data and the median value for each parameter. EPA used half the national median local limit values to approximate long-term average concentrations for all treated streams. EPA used the national median for all parameters regulated by part 413 in untreated streams. EPA applied the raw waste load based on the subcategory-specific unit operations data for all other parameters in untreated streams. EPA then estimated the pollutant loading reductions as described in the previous paragraph.

In the NODA, EPA considered two different upgrade options for indirect dischargers in the General Metals, Printed Wiring Boards, and Metal Finishing Job Shop subcategories. The first option upgrades all facilities regulated by part 413 (including both large and small platers) to meet part 433 standards. The second option upgrades only large platers regulated by part 413 and facilities not regulated by parts 413 or 433 (regulated by local limits) to meet part 433 standards. EPA rejected these upgrade options for existing indirect dischargers as: (1) Greater than 10% of existing indirect dischargers not covered by part 433 are projected to close at the upgrade option; or (2) the incremental compliance costs of the upgrade options were too great in terms of toxic removals (cost-effectiveness values (in 1981$) in excess of $420/PE). See section VI for further discussion on these upgrade options for the General Metals, Printed Wiring Boards, and Metal Finishing Job Shop subcategories.

For direct dischargers, EPA also compared the baseline pollutant loadings from the pollutant loading model to available Discharge Monitoring Report (DMR) data reflecting the measured values for the permitted parameters. EPA obtained DMR data for eighteen surveyed direct discharging facilities in EPA's questionnaire database for the General Metals subcategory. The MP&M model approach utilizing the revised baseline method used for the final rule, calculates lower baseline loadings for twelve of these eighteen direct discharging facilities than the loadings reported in DMR data (*see* DCN 17851, section 24.7). Based on this analysis, EPA has concluded that the MP&M model approach utilizing the revised baseline method used for the final rule does not excessively over- or underestimate baseline pollutant loadings and EPA's use of this model approach for today's final rule is a reasonable and appropriate basis for today's regulatory determinations.

c. TIP Changes for Upgrade

In evaluating the upgrade options analyzed for the final rule, EPA also provided TIP credit for hydroxide precipitation and clarification treatments for metal-bearing facilities that use dissolved air flotation (DAF) for metals removal (*e.g.,* settling). However, EPA notes that TIP credit for hydroxide precipitation and clarification credit to metal-bearing facilities using DAF for metals removal was not provided in evaluating options to achieve the more stringent proposed MP&M limits. EPA is concerned that DAF alone would not achieve the long-term average concentrations associated with the limitations and standards considered for the subcategories discharging metal-bearing wastewaters. Therefore, EPA included costs associated with installing hydroxide precipitation and clarification at these facilities for the final rule.

d. Revised Compliance Cost Estimates for Upgrade Analyses

Based on comments to the NODA and subsequent discussions with industry representatives, EPA revised its analysis for estimating the cost of compliance for upgrading facilities to meet the part 433 existing source limitations and standards. Section 11 of the final TDD describes EPA's final methodology in detail. In addition to the costs included in the NODA analysis, EPA's final methodology also includes costs to:

- Increase the size of the treatment train (*e.g.,* holding tanks, clarifier, gravity thickening, filter press) to treat additional wastewater (which had pollutant concentrations below the part 413 standards but not low enough to meet the option limits without treatment);
- Increase the amount of treatment chemicals to account for treating additional wastewaters and more stringent LTAs;
- Increase sludge handling and disposal costs due to the treatment of additional streams as well as the more stringent long-term averages in part 433;
- Install and operate additional automated controls such as ORP meters and pH meters;
- Provide additional operator training; and

• Increase analytical monitoring costs for small platers to monitor for the additional pollutants covered by part 433.

3. Revisions to Economic & Benefits Methodologies

For the final rule, EPA incorporated several important revisions to the economic impact and benefits methodologies from the NODA. Section V of the NODA provides a detailed discussion of all changes incorporated in the economic impact and benefits analyses after publication of the proposed MP&M rule (*see* 67 FR 38752). In addition, based on NODA comments the Agency further refined the moderate impact analysis. As previously discussed, the Economic, Environmental, and Benefits Analysis (EEBA) for the final rule provides a complete discussion of economic impact and benefits methodologies used in the final rule analyses.

a. Revisions Incorporated in the Economic Impact Methodology From the NODA

The major changes to the economic impact analyses incorporated from the NODA include: (1) Use of sector-specific thresholds for the moderate impact analysis tests (redefined in part c of this section); (2) use of a single test, based on net present value, to assess the potential for closures (this test excludes consideration of liquidation values for all MP&M facilities, including the 219 facilities that reported them in their response to the MP&M survey); and (3) use of estimated baseline capital outlays in the calculation of cash flow for the net present value test. Other changes to the economic impact methodology include: (1) Use of revised cost pass-through coefficients; (2) use of sector-specific price indices in updating survey data; (3) adjusting labor costs for facilities that report abnormally high labor costs; and (4) limiting post-compliance tax shields to no greater than reported baseline taxes.

b. Using Multiple Years of Data To Estimate Sector-Specific Moderate Impact Threshold Values

As part of its facility impact analysis, the Agency assesses whether facilities may incur moderate financial impacts—financial stress short of closure—from regulatory compliance. To assess the occurrence of moderate impacts, the Agency analyzes the change in two financial measures—(1) Pre-Tax Return on Assets (PTRA); and (2) Interest Coverage Ratio (ICR)—against threshold values (*e.g.,* after-tax compliance costs as a percentage of annual revenues) indicating weak, but still viable, financial performance.

At proposal, EPA used single threshold values of the financial measures for all MP&M sectors. Commentors argued that EPA used thresholds without providing any supporting information regarding their predictive value, the threshold values chosen, or their applicability. EPA finds that using threshold values that vary by industry better reflects the differences in business risks and operating circumstances by industry, and will provide more robust analysis of moderate impacts. In response to comments, EPA revised this approach for the NODA to use threshold values that varied by MP&M sector. For the NODA, EPA also considered using an alternative financial measure—Pre-Tax Operating Margin—instead of PTRA for the moderate impact analysis. Since the NODA, EPA continued to review its moderate impact analysis methodology, and for the final rule analysis, decided to retain the financial impact measures used at proposal: PTRA and ICR. Pre-tax return on assets provides stronger insight into operating financial performance and is a better indicator of a business' ability to attract capital and remain viable than operating margin. However, in contrast to the NODA, EPA decided to use multiple years of data for developing the threshold values for the final rule. Using multiple years of data increases the number of observations on which the moderate impact thresholds are based and reduces the likelihood that threshold values will reflect anomalous conditions that could arise from using only a single year of data.

EPA calculated the thresholds using income and financial structure information by 4-digit SIC code from the Risk Management Association (RMA) *Annual Statement Studies* for eight years from 1994 to 2001. The RMA data set provides quartile values derived from statements of commercial bank borrowers and loan applicants for firms having less than $250 million in total assets. EPA used the lowest 25 percentile values, by industry, from the RMA data set as the basis for the moderate impact thresholds. The RMA data set captures a limited industry segment, because the data set likely omits firms with too weak financial performance to seek bank loans and also omits firms that use the public securities markets or other non-bank sources to obtain capital. However, it is difficult to know what kind of bias, if any, is introduced into the analysis by these limitations. On balance, because EPA used impact thresholds based on the 25th percentile of values reported for borrowers and loan applicants, EPA estimates that the basis for the moderate impact thresholds is conservative—*i.e.,* we are more likely to err in finding that a business is in moderate financial stress than in finding that a facility is not in moderate financial stress.

EPA notes that RMA did not provide data for all 4-digit SIC codes associated with an MP&M sector. Therefore, for sectors with missing data for some 4-digit SIC codes, EPA calculated the weighted average of threshold values based only on those 4-digit SIC codes for which data were provided. This treatment assumes that the financial characteristics of the omitted SIC code segments are the same as the weighted average of SIC code segments that were included in the analysis for a given MP&M sector. *See* Chapter 5 of the EEBA for the final rule for a detailed discussion of the analysis of moderate impacts.

c. Revisions Incorporated in the Benefits Methodology from the NODA

Major revisions to the benefits methodology incorporated from the NODA include: (1) Changes to the human health methodology; (2) use of a weight-of-evidence approach in evaluating national benefit estimates; and (3) use of revised models in the Ohio case study analysis. EPA also uses revised data on characteristics of POTWs receiving discharges from the sample MP&M facilities, as discussed in the NODA.

Two revisions to the human health benefits methodology incorporated from the NODA include: (1) Use of revised assumptions and updated model parameters in the analysis of neurological effects from lead exposure in preschool children; and (2) use of a revised drinking water intake database for estimating human health effects from consumption of contaminated drinking water. The Agency did not incorporate cancer effects from exposure to lead in the final rule analysis because these effects appeared negligible.

The use of the weight-of-evidence approach for estimating national benefits is one of the most important revisions to the benefits methodology incorporated from the NODA. As discussed in the NODA, EPA traditionally estimates national level costs and benefits by extrapolating analytic results from sample facilities to the national level using sample facility survey weights. These sample facility weights are based on sample facility characteristics only and do not account for characteristics of water bodies receiving discharges from the sample MP&M facilities or for the size of the

population residing in the vicinity of the sample MP&M facilities. These additional variables, however, are likely to affect the occurrence and size of benefits associated with reduced discharges from MP&M facilities. Omission of benefit-related characteristics in designing the original sample frame may lead to conditional bias in benefit estimates. To validate the general conclusions that EPA draws from its main analysis based on the traditional benefit estimation method, EPA also estimated national level benefits for the final rule using two alternative extrapolation methods. Detailed discussion of the alternative extrapolation methods can be found in the NODA (*see* 67 FR 38752), section IX.E and F of this preamble, and in the EEBA for the final rule.

As discussed in the NODA, EPA submitted its case study analysis of recreational benefits for an official peer review. The peer review was favorable and concluded that EPA had done a competent job. Peer reviewers, however, provided several suggestions for further improvements in the analysis. The Agency made most of the recommended changes to the Ohio model, as discussed in the NODA (*see* 67 FR 38752). This revised model is used in the analysis supporting today's final rule.

However, EPA did not include multiple day trips in the benefit estimates from improvements in recreational opportunities due to reduced MP&M discharges, as it was suggested by the peer reviewers. The Ohio case study focuses on single day trips because data for single day trips are more complete and because the majority of recreational trips are single day trips. Thus, EPA estimated changes in per trip values from improved water quality for single day trips only. The Agency decided not to approximate welfare gain to participants in multi-day recreational trips based on the single-day trip values because multi-day recreational trips are likely to differ from single day trips for a number of reasons: overnight trips may include multiple purposes and destinations; the individual chooses not only to take a trip and the trip's destination, but the length of the trip; and the length of stay has costs that are not connected to travel costs. The Agency acknowledges that excluding multiple day trips from this analysis is likely to result in understatement of benefits from water quality improvements. Detailed discussion of the Ohio case study can be found in the EEBA for the final rule.

EPA did not incorporate changes to the recreational benefits methodology used in the national-level analysis from the NODA. In estimating benefits from improved boating and wildlife viewing opportunities for the final rule, EPA considers only individuals taking single day trips due to insufficient data on per multi-day trip benefits from water quality improvements. Both individuals taking single day trips and those who take multiple day trips to local water bodies were considered in the NODA analysis of recreational benefits. Similarly to the Ohio case study, excluding multiple day trips from the national analysis is likely to result in understatement of recreational benefits from water quality improvements.

d. POTW Administrative Cost and POTW Benefits Analyses

EPA received several comments to the proposal on the use of EPA's 1997 POTW survey in the analysis of POTW administrative costs and benefits from improved quality of sewage sludge. Commentors stated that EPA overestimated pollutant loadings, economic benefits, and environmental benefits associated with improved sludge quality. Commentors also stated that EPA underestimated the administrative costs associated with implementing the rule. They provided new information on POTW characteristics which EPA used to revise assumptions and its analysis of POTW administrative costs and benefits for the final rule. Specifically, the Association of Metropolitan Sewerage Agencies (AMSA) provided EPA with comments on the proposed MP&M rule and supplemented these comments with a spreadsheet database. The database contains data from an AMSA formulated survey and covers responses from 176 POTWs, representing 66 pretreatment programs. The AMSA survey was conducted to verify data from EPA's survey of POTWs, and therefore, included similar, although fewer, variables compared to EPA's survey.

EPA used some of the data provided in AMSA's survey to revise its own analyses of POTW administrative costs of the proposed MP&M rule. Elements of the administrative cost analysis include: (1) The estimated number of indirect dischargers; and (2) the unit costs of certain permitting activities, including permit implementation, sampling, and sample analysis. EPA found that although AMSA estimates of the number of indirect dischargers and the unit costs of permitting activities are consistent with the EPA's estimates used for the proposed rule analysis, their estimate neglected to take into account that not all MP&M indirect discharging facilities would have been required to meet the proposed standards. DCN 37500, section 25.4.1, provides comparisons between AMSA's and EPA's estimates. EPA added to its analysis using the AMSA data include: (1) Screening costs for POTWs that do not currently operate under a pretreatment program; and (2) oversight costs associated with implementing various regulatory options. The revised methodology for POTW administrative costs analysis is presented in EEBA Appendix F.

EPA also used the AMSA data to revise the POTW benefits methodology. Elements of the POTW benefits analysis EPA verified using the AMSA survey include: (1) Percentage of metal loadings contributed by MP&M facilities; and (2) the number of MP&M facilities served by POTWs.

AMSA also provided additional information on the number of POTWs (and percentage of total annual dry metric tons of POTW biosolids) currently meeting metals limitations in the ''Standards for the Use or Disposal of Sewage Sludge,'' (40 CFR part 503), and reasons why POTWs may choose to not land apply biosolids. These nationally-applicable standards set the general requirements, management practices, operational standards and monitoring and reporting requirements for the final use and disposal of biosolids. AMSA's survey data includes the following reasons for not land applying qualifying biosolids: (1) Land was not available for application of sewage biosolids; (2) other biosolids use/disposal practices were less expensive than land application; (3) pathogen/vector reduction requirements could not be met at an acceptable cost; and (4) local regulations or opposition to land application. EPA revised the POTW benefits methodology according to the results of the joint analysis of the EPA and AMSA surveys. The revised methodology for POTW benefits analyses is presented in EEBA Chapter 16.

4. Determining POTW Percent Removal Estimates

As discussed in the proposed rule, EPA solicited comment on potential changes to the methodology for estimating the pollutant reduction (*i.e.*, percent removal) used in EPA's pass through analysis for identifying pollutants requiring pretreatment standards (*see* 66 FR 476). For today's final rule, EPA has not changed the POTW pass-through analysis because EPA is not promulgating any new pretreatment standards for indirect dischargers.

V. Scope/Applicability of the Final Regulation

A. General Overview and Wastewaters Covered

As previously explained, today's final rule only applies to directly discharged wastewaters generated from oily operations at existing or new industrial facilities (including Federal, State and local government facilities). These facilities are engaged in manufacturing, rebuilding, or maintenance of metal parts, products or machines to be used in one of the following industrial sectors:

- Aerospace;
- Aircraft;
- Bus and Truck;
- Electronic Equipment;
- Hardware;
- Household Equipment;
- Instruments;
- Miscellaneous Metal Products;
- Mobile Industrial Equipment;
- Motor Vehicle;
- Office Machine;
- Ordnance;
- Precious Metals and Jewelry;
- Railroad;
- Ships and Boats; and
- Stationary Industrial Equipment.

EPA identified sixteen industrial sectors as comprising the MP&M category. These sectors manufacture, maintain and rebuild metal products under more than 200 different SIC codes (*see* the TDD for a listing of typical SIC codes and NAICs codes). EPA is not revising limitations and standards for three proposed industrial sectors (*e.g.*, Job Shops, Printed Wiring Board, and Steel Forming & Finishing).

Facilities in any one of the sixteen industrial sectors in the MP&M category are subject to this rule only if they directly discharge process wastewaters resulting from one or more of the following oily operations: Abrasive blasting; adhesive bonding; alkaline cleaning for oil removal; alkaline treatment without cyanide; aqueous degreasing; assembly/disassembly; burnishing; calibration; corrosion preventive coating (as specified at 40 CFR 438.2(c) and appendix B of part 438); electrical discharge machining; floor cleaning (in process area); grinding; heat treating; impact deformation; iron phosphate conversion coating; machining; painting-spray or brush (including water curtains); polishing; pressure deformation; solvent degreasing; steam cleaning; testing (*e.g.*, hydrostatic, dye penetrant, ultrasonic, magnetic flux); thermal cutting; tumbling/barrel finishing/mass finishing/vibratory finishing; washing (finished products); welding; wet air pollution control for organic constituents; and numerous sub-operations within those listed in this paragraph. In addition, process wastewater also results from associated rinses that remove materials that the preceding processes deposit on the surface of the workpiece. These oily operations are defined in section 4 of the TDD and appendix B of today's final rule. In addition, today's final rule does not apply to direct discharges of wastewaters that are otherwise covered by other effluent limitations guidelines.

As was the case at proposal, EPA defines process wastewater for the final rule to include wastewater discharges from the following activities: (1) Wastewater from air pollution control devices; and (2) washing vehicles only when it is a preparatory step prior to performing an oily operation (*e.g.*, prior to disassembly to perform engine maintenance or rebuilding). EPA has adopted this approach for the final rule due to the potential of these unit operations to produce significant quantities of pollutants in wastewaters (*see* 66 FR 433 to 434).

Not subject to this final rule are non-process wastewater discharges which include the following: Sanitary wastewater, non-contact cooling wastewater, laundering wastewater, and non-contact storm water. In addition, non-process wastewater also includes wastewater discharges from non-industrial sources such as residential housing, schools, churches, recreational parks, shopping centers, and wastewater discharges from gas stations, utility plants, and hospitals.

In addition to non-process wastewater, the final rule does not apply to wastewater generated from: (1) Gravure cylinder and metallic platemaking conducted within or for printing and publishing facilities; (2) bilge water on ships afloat; (3) electroplating-type operations during semiconductor wafer manufacturing or wafer fabrication processes occurring in a ''clean room'' environment; (4) the washing of cars, aircraft or other vehicles when it is performed only for aesthetic/cosmetic purposes; (5) MP&M operations at gasoline stations (SIC code 5541) or vehicle rental facilities (SIC code 7514 or 7519); or (6) unit operations performed by drum reconditioners/refurbishers to prepare metal drums for reuse. The final rule does not include these non-process wastewaters within the scope of the rule for the reasons explained in the preamble to the proposed rule (*see* 66 FR 433). EPA received no comments on the proposal or NODA that have caused the Agency to change its mind about the approach it proposed and has now adopted.

EPA is also not promulgating limitations and standards for facilities in the Shipbuilding Dry Dock subcategory. Today's final rule does not cover wastewater generated on-board ships and boats when they are afloat (that is, not in dry docks or similar structures), flooding water, and dry dock ballast water (*see* 66 FR 445). For U.S. military ships, EPA is in the process of establishing standards to regulate discharges of wastewater generated on-board these ships when they are in U.S. waters and are afloat under the Uniform National Discharge Standards (UNDS) pursuant to section 312(n) of the CWA (*see* 64 FR 25125, May 10, 1999).

Finally, today's rule does not apply to maintenance or repair of metal parts, products, or machines that takes place only as ancillary activities at facilities not included in the sixteen MP&M industrial sectors. EPA estimates that these ancillary repair and maintenance activities would typically discharge *de minimis* quantities of process wastewater. For example, wastewater discharges from repair of metal parts at oil and gas extraction facilities are not subject to today's final rule. The Agency finds that permit writers will establish limits using best professional judgment (BPJ) to regulate wastewater discharges from ancillary waste streams for direct dischargers (*see* 66 FR 433). EPA has not received any information during the rulemaking that would contradict this conclusion.

B. Subcategorization

For today's final rule, EPA is subcategorizing the MP&M point source category based on the unit operations described in more detail in section 4 of the TDD, and is establishing limitations and standards for direct dischargers in the Oily Wastes subcategory (subpart A).

The Oily Wastes subcategory applies to wastewaters generated from ''oily operations'' that are not otherwise covered by other effluent limitations guidelines. EPA has previously defined ''oily operations'' in section V.A and at 40 CFR 438.2(f) and appendix B of today's final rule.

Facilities engaged in the manufacture, overhaul or heavy maintenance of railroad engines, cars, car-wheel trucks, or similar parts or machines (''railroad overhaul or heavy maintenance facilities'') typically perform different unit operations than railroad line maintenance facilities. Railroad line maintenance facilities only perform one or more of the following unit operations including; Assembly/disassembly, floor

cleaning, maintenance machining (wheel truing), touch-up painting, and washing. Railroad overhaul or heavy maintenance facilities typically perform the following unit operations: Assembly/disassembly, floor cleaning, maintenance machining (wheel truing), touch-up painting, washing, abrasive blasting, alkaline cleaning, aqueous degreasing, corrosion preventive coating, electrical discharge machining, grinding, heat treating, impact deformation, painting, plasma arc machining, polishing, pressure deformation, soldering/brazing, stripping (paint), testing, thermal cutting, and welding. Wastewater discharges from railroad line maintenance facilities (as defined at 40 CFR 438.2(h)) are not subject to today's final rule. Wastewater discharges from railroad overhaul or heavy maintenance facilities (as defined at 40 CFR 438.2(i)) may be covered by subpart A of this part, the Metal Finishing Point Source Category (40 CFR part 433), or by other effluent limitations guidelines, as applicable.

VI. The Final Regulation

This section describes, by subcategory, the option(s) considered and selected for today's final rule. For each subcategory, EPA provides a discussion, as applicable, for the regulatory levels that EPA considered for regulation (*i.e.*, BPT, BCT, BAT, NSPS, PSES, PSNS). For a detailed discussion of all technology options considered in the development of today's final rule, see the proposal (*see* 66 FR 447), the NODA (*see* 67 FR 38797) or section 9 of the TDD for today's final rule.

Based on the record of information supporting the final MP&M rule, EPA has determined that the selected technology for the Oily Wastes subcategory is technically available. EPA used the appropriate technologies for developing today's limitations for existing direct dischargers (BPT and BCT) in one MP&M subcategory listed in the January 2001 proposal (Oily Wastes). EPA has also determined that each technology it selected as the basis for the final limitations or standards has effluent reductions commensurate with compliance costs and is economically achievable for the applicable subcategory. EPA also considered the age, size, processes, and other engineering factors pertinent to facilities in the scope of the final regulation for the purpose of evaluating the technology options. None of these factors provides a basis for selecting different technologies from those EPA has selected as its technology options for today's rule (*see* section 6 of the TDD for the final rule for further discussion of EPA's analyses of these factors).

EPA considered the use of a low-flow cutoff as the principal means for reducing economic impacts on small businesses and administrative burden for control authorities associated with certain treatment technologies it considered. EPA did not identify any regulatory scheme incorporating a low-flow cutoff for direct dischargers that would assist EPA in meeting these objectives. EPA notes that all direct dischargers require a NPDES discharge permit regardless of wastewater discharge flow volume.

The new source performance standards (NSPS) EPA is today establishing represent the greatest degree of effluent reduction achievable through the best available technology. In selecting its technology basis for today's new source standards (NSPS) for the Oily Wastes subcategory being promulgated today, EPA considered all of the factors specified in CWA section 306, including the cost of achieving effluent reductions. EPA used the appropriate technology option for developing today's standards for new direct dischargers in the Oily Wastes subcategory. The new source technology basis for the Oily Wastes subcategory is equivalent to the technology bases upon which EPA is setting BPT and BCT (*see* Chapter 9 of the EEBA). EPA has thoroughly reviewed the costs of such technologies and has concluded that such costs do not present a barrier to entry. The Agency also considered energy requirements and other non-water quality environmental impacts for the new source technology basis and found no basis for any different standards from those selected for NSPS. Therefore, EPA concluded that the NSPS technology basis chosen for the Oily Wastes subcategory constitute the best available demonstrated control technology. For a discussion on the compliance date for new sources, see section XI of today's final rule.

EPA decided not to establish limitations for existing sources for seven subcategories listed in the January 2001 proposal (General Metals, Metal Finishing Job Shops, Printed Wiring Boards, Non-Chromium Anodizers, Steel Forming & Finishing, Railroad Line Maintenance, and Shipbuilding Dry Dock). EPA also decided not to establish standards for new sources for the same seven subcategories. Finally, EPA decided not to establish standards for new and existing indirect dischargers (PSES and PSNS) for all eight subcategories listed in the January 2001 proposal. EPA's bases for not promulgating revised limitations and standards for these subcategories are explained in the following sections.

A. General Metals Subcategory

EPA is not revising or establishing any limitations or standards for facilities that would have been subject to this subcategory. Such facilities will continue to be regulated by the General Pretreatment Standards (part 403), local limits, permit limits, and parts 413 and/or 433, as applicable.

1. Best Practicable Control Technology Currently Available (BPT)

EPA proposed to establish BPT limitations for existing direct dischargers in the General Metals subcategory based on the Option 2 technology. EPA evaluated the cost of achieving effluent reductions, pollutant reductions, and the economic achievability of compliance with BPT limitations based on the Option 2 technology and the level of the pollutant reductions resulting from compliance with such limitations. EPA has decided not to establish BPT limitations for existing direct dischargers in the proposed General Metals subcategory. The 2001 proposal also contains detailed discussions on why EPA rejected BPT limitations based on other BPT technology options (*see* 66 FR 452). The information in the record for today's final rule provides no basis for EPA to change this conclusion.

EPA proposed Option 2 as a basis for establishing BPT limitations for the General Metals subcategory. Option 2 technology includes the following: (1) In-process flow control and pollution prevention; (2) segregation of wastewater streams; (3) preliminary treatment steps as necessary (including oils removal using chemical emulsion breaking and oil-water separation, alkaline chlorination for cyanide destruction, reduction of hexavalent chromium, and chelation breaking); (4) chemical precipitation using sodium hydroxide; (5) sedimentation using a clarifier; and (6) sludge removal (*i.e.*, gravity thickening and filter press). See section 9 of the TDD for today's final rule for additional technical details on the Option 2 technology.

Those facilities potentially regulated in the General Metals subcategory include facilities that are currently subject to effluent limitations guideline regulation under part 433 as well as facilities not currently subject to national regulation. Approximately 263 of the 266 existing General Metals direct dischargers (estimated from survey weights for 31 surveyed facilities) are currently covered by the Metal

Finishing effluent guidelines at part 433. The remaining three facilities (estimated from a survey weight for one surveyed facility) are currently directly discharging metal-bearing wastewaters (*e.g.*, salt bath descaling, UP–37) but are not covered by existing Metal Finishing effluent guidelines. EPA's review of discharge monitoring data and unit operations for this surveyed non-433 General Metals facility (with a survey weight of approximately three) indicates that this facility is already achieving part 433 limitations because this facility has discharges that closely mirror those required by part 433.

The facilities that are currently subject to part 433 regulations and those facilities achieving part 433 discharge levels, in most cases, have already installed effective pollution control technology that includes many of the components of the Option 2 technology. Approximately 30 percent of the direct discharging facilities in the General Metals subcategory currently employ chemical precipitation followed by a clarifier. Further, EPA estimates that compliance with BPT limitations based on the Option 2 technology would result in no closures of the existing direct dischargers in the General Metals subcategory. EPA also notes that the adoption of this level of control would also represent a further reduction in pollutants discharged into the environment by facilities in this subcategory. For facilities in the General Metals subcategory at Option 2, EPA estimates an annual compliance cost of $23.7 million (2001$). Using the method described in Table IV–2 to estimate baseline pollutant loadings, EPA estimates Option 2 pollutant removals of 417,477 pounds of conventional pollutants and 33,716 pounds of priority metal and organic pollutants from current discharges into the Nation's waters.

Evaluated under its traditional yardstick, EPA calculated that the effluent reductions are achieved at a cost of $18.1/pound-pollutant removed (2001$) for the General Metals subcategory at Option 2. To estimate all pounds of pollutant removed by Option 2 technology for direct dischargers in the General Metals subcategory, EPA used the method described in Table IV–2 to estimate baseline pollutant loadings, and the sum of Chemical Oxygen Demand (COD) pounds removed plus the sum of all metals pounds removed to measure the pollutant removal as compared to compliance costs. EPA used the combination of COD pounds removed plus the sum of all metals pounds removed to avoid any significant double counting of pollutants.

As previously stated, EPA received many comments on its estimation of baseline pollutant loadings and reductions for the various options presented in the January 2001 proposal. In response to these comments, EPA solicited comment in the June 2002 NODA on alternative methods to estimate baseline pollutant loadings. Commentors on the NODA were generally supportive of EPA's alternative methods to estimate baseline pollutant loadings. In particular, commentors noted that more accurate estimates of baseline pollutant loadings could be achieved by using DMR data. In response to these NODA comments, EPA combined the alternative methods in the NODA into the EPA Cost & Loadings Model for the final rule (*see* Table IV–2).

EPA also received comment on the parameter or parameters it should use for estimating total pounds removed by the selected technology option. EPA selected the sum of COD and all metals pounds removed for the final rule to compare effluent reductions and compliance costs. This approach avoided any significant double counting of pollutants and also provided a reasonable estimate of total pounds removed by Option 2 for the General Metals subcategory. As more fully described in the TDD, Option 2 technology segregates wastewaters into at least five different waste streams, each of which have one or two treatment steps. For example, segregated oily wastewaters have two treatment steps under Option 2 technology as they are first treated by chemical emulsion breaking/oil water separation and then by chemical precipitation and sedimentation. These segregated wastestreams can be loosely grouped together as either oily wastewaters or metal-bearing wastewaters. EPA use of COD pounds removed for Option 2 technology generally represents the removal of pollutants from the segregated oily wastewaters. EPA use of total metals pounds removed for Option 2 technology generally represents the removal of pollutants from the segregated metal-bearing wastewaters.

EPA also considered alternative parameters for calculating total pounds removed by Option 2 for the comparison of effluent reductions and compliance costs for the General Metals subcategory. In particular, EPA calculated a ratio of less than $14/pound-pollutant removed (2001$) for the General Metals subcategory at Option 2 when EPA used the highest set of pollutants removed per facility with no significant double counting of pollutants (*i.e.*, highest per facility pollutant removals of: (1) COD plus total metals; (2) oil and grease (as HEM) plus total metals; or (3) oil and grease (as HEM) plus TSS). EPA used the highest per facility pollutant removals as a confirmation of its primary method for calculating baseline pollutant loadings (*see* Table IV–2) and Option 2 for General Metals subcategory.

Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA has decided not to adopt BPT limitations based on Option 2 technology. A number of factors supports EPA's conclusion that BPT limitations based on Option 2 technology do not represent effluent reduction levels attainable by the best practicable technology currently available. As previously noted, a substantial number of facilities that would be subject to limitations as General Metals facilities are already regulated by BPT/BAT part 433 limitations and other facilities are *de facto* part 433 facilities if characterized by their discharges. Thus, establishing BPT limitations for a new General Metals subcategory would effectively revise existing BPT/BAT limitations with respect to those facilities. In the circumstances presented here where EPA, for a significant portion of an industry, is revising existing BPT/BAT limitations, further review of the character and cost of the effluent reductions achieved by Option 2 is warranted in deciding what is BPT technology. Such an examination shows that, while the Option 2 technology would remove additional pollutants at costs in the middle of the range EPA has traditionally determined are reasonable, the costs of the additional removals of toxic pollutants are substantially greater. EPA has now determined that, in the circumstances of this rulemaking, where a substantial portion of a subcategory is already subject to effluent limitations guidelines that achieve significant removal, it should not promulgate BPT limitations under consideration here because the limitations would achieve additional toxic removals at a cost ($1,000/PE in 1981$) substantially greater than that EPA has typically imposed for BAT technology in other industries (generally less than $200/PE in 1981$).

EPA also considered transferring limitations from existing Metal Finishing effluent guidelines (40 CFR part 433) to the General Metals subcategory. The technology basis for part 433 includes the following: (1)

Segregation of wastewater streams; (2) preliminary treatment steps as necessary (including oils removal using chemical emulsion breaking and oil-water separation, alkaline chlorination for cyanide destruction, reduction of hexavalent chromium, and chelation breaking); (3) chemical precipitation using sodium hydroxide; (4) sedimentation using a clarifier; and (5) sludge removal (*i.e.*, gravity thickening and filter press). *See* section 9 of the TDD for today's final rule for additional technical details on the part 433 technology basis.

Approximately 99% of the existing direct dischargers in the General Metals subcategory are currently covered by existing Metal Finishing effluent guidelines. The remaining 1% (an estimated three facilities nationwide based on the survey weight associated with one surveyed facility) are currently permitted to discharge metal-bearing wastewaters but are not covered by existing Metal Finishing effluent guidelines. EPA's review of discharge monitoring data and unit operations for this surveyed non-433 General Metals facility (with a survey weight of approximately three) indicates that this facility is subject to permit limitations established on a BPJ basis that are equivalent or more stringent than part 433 limitations. Transferring limitations from existing Metal Finishing effluent guidelines would likely result in no additional pollutant load reductions. Therefore, based on the lack of additional pollutant removals that are estimated, EPA is not promulgating BPT limitations transferred from existing Metal Finishing effluent limitations guidelines for the General Metals subcategory.

EPA is not revising or establishing BPT limitations for any facilities in this subcategory. Direct dischargers in the General Metals subcategory will remain regulated by permit limits and part 433, as applicable.

2. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT, EPA considers whether there are technologies that achieve greater removals of conventional pollutants than adopted for BPT, and whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.'' For a more detailed description of the BCT cost test and details of EPA's analysis, see Chapter 4 of the EEBA.

As EPA is not establishing any BPT limitations for the General Metals subcategory, EPA did not evaluate any technologies for the final rule that can achieve greater removals of conventional pollutants. Consequently, EPA is not establishing BCT limitations for the General Metals subcategory.

3. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish BAT limitations for existing direct dischargers in the General Metals subcategory based on the Option 2 technology. As previously noted, EPA has decided not to establish BPT limitations based on Option 2 technology. The same reasons support not establishing BAT limitations based on the same technology. EPA evaluated the cost of effluent reductions, pollutant reductions, and the economic achievability of compliance with BAT limitations based on the Option 2 technology.

Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA determined that the costs of Option 2 are disproportionate to the toxic pollutant reductions (measured in pound-equivalents (PE)). The cost of achieving the effluent reduction (in 1981$) for Option 2 for direct dischargers in the General Metals subcategory is over $1,000/PE removed (*see* the EEBA and DCN 37900, section 26.0, for a discussion of the cost-effectiveness analysis). The costs associated with this technology are, as previously noted, substantially greater than the level EPA has traditionally determined are associated with available toxic pollutant control technology. EPA has determined that Option 2 technology is not the best available technology economically achievable for existing direct dischargers in the General Metals subcategory. EPA is not revising or establishing BAT limitations for this subcategory based Option 2 technology.

EPA also considered transferring BAT limitations from existing Metal Finishing effluent guidelines (40 CFR 433.14) to the General Metals subcategory. EPA's reviewed existing General Metals facilities and found that all are currently achieving part 433 BAT limitations. Transferring BAT limitations from existing Metal Finishing effluent guidelines would likely result in no additional pollutant load reductions and minimal incremental compliance costs (*see* section VI.A.1). Therefore, based on the lack of additional pollutant removals that are estimated, EPA is not promulgating BAT limitations transferred from existing Metal Finishing effluent limitations guidelines for the General Metals subcategory.

EPA is not revising or establishing BAT limitations for any facilities in this subcategory. Direct dischargers in the General Metals subcategory will remain regulated by permit limits and part 433, as applicable.

4. New Source Performance Standards (NSPS)

EPA proposed NSPS for the General Metals subcategory based on Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). Commentors stated that EPA had under-costed the Option 4 technology and that the compliance costs would be a barrier to entry for new facilities. In addition, commentors questioned the completeness of EPA's database on microfiltration, noting that EPA transferred standards for several pollutants from the Option 2 technology, based on lack of data. EPA reviewed its database for the Option 4 technology and agrees that its microfiltration database is insufficient to support a determination that the Option 4 limitations are technically achievable.

EPA also evaluated setting General Metals NSPS based on the Option 2 technology and assessed the financial burden to new General Metals direct dischargers. Specifically, EPA's ''barrier to entry'' analysis identified whether General Metals NSPS based on the Option 2 technology would pose sufficient financial burden as to constitute a material barrier to entry of new General Metals establishments into the MP&M point source category. Additionally, EPA reviewed its database for establishing General Metals NSPS based on the Option 2 technology as commentors indicated the proposed standards were not technically achievable.

In response to these comments, EPA reviewed all the information currently available on General Metals facilities employing the Option 2 technology basis. This review demonstrated that process wastewaters at General Metals facilities contain a wide variety of metals in significant concentrations. Commentors stated that single stage precipitation and solids separation step may not achieve sufficient removals for wastewaters that contain significant concentrations of a wide variety of metals—especially if the metals preferentially precipitate at disparate

pH ranges. Consequently, to address concerns raised by commentors, EPA also costed new sources to operate two separate chemical precipitation and solids separation steps in series. Two-stage chemical precipitation and solids separation allows General Metals facilities with multiple metals to control metal discharges to concentrations lower than single-stage chemical precipitation and solids separation over a wider pH range.

Applying this revised costing approach, EPA projects a barrier to entry for General Metals NSPS based on the Option 2 technology as 14% of General Metals direct dischargers have after-tax compliance costs between 1 to 3% of revenue, 22% have after-tax compliance costs between 3 to 5% of revenue, and 2% have after-tax compliance costs greater than 5% of revenue. Consequently, based on the compliance costs of the modified Option 2 technology EPA is today rejecting Option 2 technology as the basis for NSPS in the General Metals subcategory. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

EPA also considered transferring NSPS from existing Metal Finishing effluent guidelines (40 CFR 433.16) to the General Metals subcategory. EPA reviewed existing General Metals direct dischargers and found that all are currently either covered by or have permits based on the Metal Finishing limitations at 40 CFR part 433. EPA has no basis to conclude that new General Metals facilities would have less stringent requirements than existing facilities, particularly since, in the absence of promulgated NSPS, it is likely that permit writers would consult the part 433 requirements to establish BPJ limits. In addition, those new facilities which meet the applicability criteria for part 433 will be subject to the NSPS for that category. Therefore, transferring standards from these existing Metal Finishing effluent limitations guidelines would likely result in no additional pollutant load reductions.

Therefore, based on the lack of additional pollutant removals that are estimated, EPA is not promulgating NSPS for the General Metals subcategory. EPA is not revising or establishing NSPS for any facilities in this subcategory. Direct dischargers in the General Metals subcategory will remain regulated by permit limits and part 433, as applicable.

5. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the General Metals subcategory based on the Option 2 technology (*i.e.*, the same technology basis that EPA considered for BPT/BCT/BAT for this subcategory) with a ''low-flow'' exclusion of 1 million gallons per year (MGY) to reduce economic impacts on small businesses and administrative burden for control authorities. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA rejected promulgating PSES for existing indirect dischargers in the General Metals subcategory based on the Option 2 technology for the following reasons: (1) Many General Metals indirect dischargers are currently regulated by existing effluent guidelines (parts 413 or 433 or both, as applicable); (2) EPA estimates that compliance with PSES based on the Option 2 technology will result in the closure of approximately 4% of the existing indirect dischargers in this subcategory; and (3) EPA determined that the incremental toxic pollutant reductions are very expensive per pound removed (the cost-effectiveness value (in 1981$) for Option 2 for indirect dischargers in the General Metals subcategory is $432/PE).

This suggests to EPA that the identified technology is not truly ''available'' to this industry because it would remove a relatively small number of additional toxic pounds at a cost significantly greater than that EPA has typically determined is appropriate for other industries. EPA has determined that Option 2 technology is not the best available technology economically achievable for existing indirect dischargers in the General Metals subcategory. Therefore, EPA is not establishing PSES for this subcategory based on the Option 2 technology.

As discussed in the June 2002 NODA (*see* 67 FR 38798), EPA also considered a number of alternative options whose economic impacts would be less costly than Option 2 technology. These options potentially have compliance costs more closely aligned with toxic pollutant reductions. EPA considered the following alternative options for today's final rule:

Option A: No change in current regulation;

Option B: Option 2 with a higher low-flow exclusion;

Option C: Upgrading facilities currently covered by part 413 to the PSES of part 433; and

Option D: Upgrading all facilities covered by part 413, and those facilities covered by ''local limits only'' that discharge greater than a specified wastewater flow (*e.g.*, 1, 3, or 6.25 MGY) of process wastewater to the part 433 pretreatment standards for existing sources. Note that facilities regulated by ''local limits only'' are also regulated by the General Pretreatment Regulations (40 CFR part 403).

As discussed in section IV.B.1 of today's final rule, based on comments, EPA has revised its methodology for estimating compliance costs and pollutant loadings for Option 2, higher low-flow exclusions (Option B); and the ''upgrade'' options (Options C and D) previously described. Using information from this revised analysis, EPA concludes that all of these alternative options (Options B, C, and D) are either not available or not economically achievable. EPA rejected Options B, C, and D as: (1) Greater than 10% of existing indirect dischargers not covered by part 433 close at the upgrade option; or (2) toxic removals of the upgrade options are quite expensive (cost-effectiveness values (in 1981$) in excess of $420/PE), suggesting that these options are not truly available technologies for this industry segment. EPA consequently determined that none of the treatment options represented best available technology economically achievable. Therefore, EPA is not revising or establishing PSES for existing indirect dischargers in the General Metals subcategory (Option A). Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by local limits, general pretreatment standards (part 403), and parts 413 and/or 433, as applicable. EPA also notes that facilities regulated by parts 413 and/or 433 PSES must comply with part 433 PSNS if the changes to their facilities are determined to make them new sources.

6. Pretreatment Standards for New Sources (PSNS)

In 2001, EPA proposed pretreatment standards for new sources based on the Option 4 technology basis. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. As a result, for the final rule EPA considered

establishing PSNS in the General Metals subcategory based on the Option 2 technology (*i.e.*, the same technology basis that was considered for BPT/BCT/BAT for this subcategory) along with the same ''low-flow'' exemption of 1 MGY considered for existing sources.

For today's final rule EPA evaluated setting General Metals PSNS based on the Option 2 technology and assessed the financial burden to new General Metals indirect dischargers. Specifically, EPA's ''barrier to entry'' analysis identified whether General Metals PSNS based on the Option 2 technology would pose sufficient financial burden on new General Metals facilities to constitute a material barrier to entry into the MP&M point source category.

EPA projects a barrier to entry for General Metals PSNS based on the Option 2 technology as 14% of General Metals indirect dischargers have after-tax compliance costs between 1 to 3% of revenue and 20% have after-tax compliance costs between 3 to 5% of revenue. Consequently, EPA is today rejecting Option 2 technology as the basis for PSNS in the General Metals subcategory. EPA has selected ''no further regulation'' for new General Metals indirect dischargers and is not revising PSNS for new General Metals indirect dischargers. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by local limits, general pretreatment standards (part 403), and part 433, as applicable. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

B. Metal Finishing Job Shops Subcategory

EPA is not revising any limitations or standards for facilities that would have been subject to this subcategory. Such facilities will continue to be regulated by the General Pretreatment Standards (part 403), local limits, permit limits, and parts 413 and/or 433, as applicable.

1. BPT/BCT/BAT

EPA proposed to establish BPT/BCT/BAT for existing direct dischargers in the MFJS subcategory based on the Option 2 technology (*see* section VI.A for a description of Option 2). EPA evaluated the cost of effluent reductions, pollutant reductions, and the economic achievability of compliance with BPT/BCT/BAT limitations based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA determined that the compliance costs of the Option 2 technology are not economically achievable. EPA estimates that compliance with BPT/BCT/BAT limitations based on the Option 2 technology will result in the closure of 50% of the existing direct dischargers in this subcategory (12 of 24 existing MFJS direct dischargers). Consequently, EPA concludes that for existing direct dischargers in the MFJS subcategory, Option 2 is not the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable. EPA has decided not to establish new BPT, BCT, or BAT limitations for existing MFJS direct dischargers based on the Option 2 technology, which will remain subject to part 433.

2. New Source Performance Standards (NSPS)

EPA proposed to establish NSPS for new direct dischargers in the MFJS subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA rejected Option 4 technology as the basis for NSPS in the MFJS subcategory.

For today's final rule EPA evaluated setting MFJS NSPS based on the Option 2 technology and assessed the financial burden to new MFJS direct dischargers. Specifically, EPA's ''barrier to entry'' analysis identified whether MFJS NSPS based on the Option 2 technology would pose sufficient financial burden so as to constitute a material barrier to entry into the MP&M point source category. Additionally, EPA reviewed its database for establishing MFJS NSPS based on the Option 2 technology as commentors indicated the proposed standards were not technically achievable.

In response to these comments, EPA reviewed all the information currently available on MFJS facilities employing the Option 2 technology basis. This review demonstrated that process wastewaters at MFJS facilities contain a wide variety of metals in significant concentrations. Commentors stated that single stage precipitation and solids separation may not achieve sufficient removals for wastewaters that contain significant concentrations of a wide variety of metals—especially if the metals preferentially precipitate at disparate pH ranges. Consequently, to address concerns raised by commentors, EPA also costed new sources to operate two separate chemical precipitation and solids separation steps in series. Two-stage chemical precipitation and solids separation allows MFJS facilities with multiple metals to control metal discharges to concentrations lower than single-stage chemical precipitation and solids separation over a wider pH range.

Applying this revised costing approach, EPA projects a barrier to entry for MFJS NSPS based on the Option 2 technology as all MFJS direct dischargers have new source compliance costs that are greater than 5% of revenue. Consequently, EPA is today rejecting Option 2 technology as the basis for NSPS in the MFJS subcategory, and is not revising NSPS for new MFJS direct dischargers. Wastewater discharges from these facilities in this subcategory will remain regulated by local limits and part 433 NSPS as applicable. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

3. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the MFJS subcategory based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA determined that the costs of Option 2 are not economically achievable for existing indirect dischargers in the MFJS subcategory. EPA estimates that compliance with PSES based on the Option 2 technology will result in the closure of 46% of the existing indirect dischargers in this subcategory (589 of 1,270 existing MFJS indirect dischargers), which EPA considers to be too high. EPA has determined that Option 2 technology is not the best available technology economically achievable for existing indirect dischargers in the MFJS subcategory. Therefore, EPA is not establishing PSES for this subcategory based on the Option 2 technology.

As discussed in the January 2001 proposal (*see* 66 FR 551) and June 2002 NODA (*see* 67 FR 38801), EPA also considered a number of alternative options whose economic impacts would be less costly than Option 2 technology.

These options potentially have compliance costs more closely aligned with toxic pollutant reductions. EPA considered the following alternative options for today's final rule:

Option A: No change in current regulation;

Option B: Option 2 with a low-flow exclusion; and

Option C: Upgrading facilities currently covered by part 413 to the PSES of part 433.

Option D: Pollution Prevention Option.

All facilities in the MFJS subcategory are currently subject to part 413, part 433 or both.

As discussed in section IV.B.1 of today's final rule, based on comments, EPA has revised its methodology for estimating compliance costs and pollutant loadings for Option 2, low-flow exclusions (Option B), and the ''upgrade'' option (Option C) previously described. Using information from this revised analysis, EPA concludes that neither of these alternative options (Options B or C) are economically achievable. EPA rejected Options B and C as greater than 10% of existing indirect dischargers not covered by part 433 close at the upgrade option.

EPA also solicited comment in the January 2001 proposal on a pollution prevention alternative for indirect dischargers in this subcategory (Option D). Commentors supported option D and stated that the pollution prevention practices identified by EPA in the January 2001 proposal represent environmentally sound practices for the metal finishing industry. The commentors also stated that Option D should, however, be implemented on a voluntary basis similar to the National Metal Finishing Strategic Goals Program (*see* 66 FR 511). Control authorities also commented that Option D may increase their administrative burden because of additional review of facility operations and compliance with the approved pollution prevention plan, and enforcement of Option D may be more difficult than other options considered. EPA is not promulgating Option D for facilities in the MFJS subcategory for the final rule due to the increased administrative burden on pretreatment control authorities and potential problems enforcing Option D. Section 15 of the TDD describes many of the pollution prevention practices that were considered for Option D. These pollution prevention practices may be useful in helping facilities lower operating costs, improve environmental performance, and foster other important benefits.

EPA is not establishing PSES for existing indirect dischargers in the MFJS subcategory. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by general pretreatment standards (part 403), and parts 413 and/or 433, as applicable. EPA also notes that facilities regulated by parts 413 and/or 433 PSES must comply with part 433 PSNS if the changes to their facilities are determined to make them new sources.

4. Pretreatment Standards for New Sources (PSNS)

EPA proposed to establish PSNS for indirect dischargers in the MFJS subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA is today rejecting Option 4 technology as the basis for PSNS in the MFJS subcategory.

For today's final rule EPA evaluated setting MFJS PSNS based on the Option 2 technology and assessed the financial burden to new MFJS indirect dischargers. Specifically, EPA's 'barrier to entry' analysis identified whether MFJS PSNS based on the Option 2 technology would pose sufficient financial burden on new MFJS facilities to constitute a material barrier to entry into the MP&M point source category.

EPA projects a barrier to entry for MFJS PSNS based on the Option 2 technology as 8% of MFJS indirect dischargers have after-tax compliance costs between 1–3% of revenue, 5% have after-tax compliance costs between 3–5% of revenue, and 6% have after-tax compliance costs greater than 5% of revenue. Consequently, EPA is today rejecting Option 2 technology as the basis for PSNS in the MFJS subcategory, and is not revising PSNS for new MFJS indirect dischargers. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by local limits, general pretreatment standards (part 403), and part 433, as applicable. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

C. Printed Wiring Board Subcategory

EPA is not revising any limitations or standards for facilities that would have been subject to this subcategory. Such facilities will continue to be regulated by the General Pretreatment Standards (part 403), local limits, permit limits, and parts 413 and/or 433, as applicable.

1. BPT/BCT/BAT

EPA proposed to establish BPT/BCT/BAT for direct dischargers in the PWB subcategory based on the Option 2 technology (*see* section VI.A for a description of Option 2). EPA evaluated the cost of effluent reductions, pollutant reductions, and the economic achievability of compliance with BPT/BCT/BAT limitations based on the Option 2 technology. Based on revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA has concluded that revision of the national regulation is not warranted for this subcategory.

Based on MP&M survey information, EPA estimates that compliance with BPT/BCT/BAT limitations based on the Option 2 technology results in no closures of the existing eight direct dischargers in the PWB subcategory. However, EPA decided not to establish BPT/BAT limitations based on the Option 2 technology for the PWB subcategory for the following reasons: (1) EPA identified only eight existing PWB direct dischargers and all of these PWB direct dischargers are currently regulated by existing effluent guidelines (part 433); and (2) the costs of Option 2 are disproportionate to the estimated toxic pollutant reductions. EPA estimates compliance cost of $0.3 million (2001$) with only 186 toxic pound-equivalents (PE) being removed. This equates to a cost-effectiveness value (in 1981$) of approximately $900/PE. EPA concludes that for existing direct dischargers in the PWB subcategory, Option 2 is not the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable. EPA has decided not to establish new BPT, BCT, or BAT limitations for existing PWB direct dischargers based on the Option 2 technology, which will remain subject to part 433.

2. New Source Performance Standards (NSPS)

EPA proposed to establish NSPS for new direct dischargers in the PWB subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA

concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA is today rejecting Option 4 technology as the basis for NSPS in the PWB subcategory.

For today's final rule EPA evaluated setting PWB NSPS based on the Option 2 technology. EPA reviewed its database for establishing PWB NSPS based on the Option 2 technology as commentors indicated the proposed standards were not technically achievable. In response to these comments, EPA reviewed all the information currently available on PWB facilities employing the Option 2 technology basis. EPA now concludes that the PWBs Option 2 database can only be used to establish limitations for copper, nickel, and tin. In order to assess the difference between current NSPS requirements (from part 433) for PWB facilities and those under consideration here, EPA estimated the incremental quantities of copper, nickel, and tin that would be reduced if a new PWB facility were required to meet NSPS based on the Option 2 technology rather than NSPS based on 433. EPA analysis shows minimal amounts of pollutant reductions based on more stringent requirements on copper, nickel, and tin.

Consequently, EPA is today rejecting Option 2 technology as the basis for NSPS in the PWB subcategory based on the small incremental quantity of toxic pollutants that would be reduced in relation to existing requirements. EPA is not establishing NSPS for new PWB direct dischargers and is not revising existing NSPS for new PWB direct dischargers. Wastewater discharges from these facilities in this subcategory will remain regulated by permit limits and part 433 as applicable. *See* section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

3. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the PWB subcategory based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA rejected promulgating PSES for existing indirect dischargers in the PWB subcategory based on the Option 2 technology for the following reasons: (1) All PWB indirect dischargers are currently regulated by existing effluent guidelines (parts 413 or 433 or both, as applicable); (2) EPA estimates that compliance with PSES based on the Option 2 technology will result in the closure of 6.5% of the existing indirect dischargers in this subcategory (55 of 840 existing PWB indirect dischargers); and (3) EPA determined that the toxic pollutant reductions are very expensive per pound removed (the cost-effectiveness value (in 1981$) is $455/PE). EPA has determined that Option 2 technology is not the best available technology economically achievable for existing indirect dischargers in the PWB subcategory, therefore is not establishing PWB PSES based on the Option 2 technology.

As discussed in the June 2002 NODA (*see* 67 FR 38802), EPA also considered a number of alternative options whose economic impacts would be less costly than Option 2 technology. These options potentially have compliance costs more closely aligned with toxic pollutant reductions. EPA considered the following alternative options for today's final rule:

Option A: No change in current regulation;

Option B: Option 2 with a higher low-flow exclusion; and

Option C: Upgrading facilities currently covered by part 413 to the PSES of part 433

EPA notes that all facilities in the PWB subcategory are currently subject to part 413, part 433 or both.

As discussed in section IV.B.1 of today's final rule, based on comments, EPA has revised its methodology for estimating compliance costs and pollutant loadings for Option 2, higher low-flow exclusions (Option B); and the ''upgrade'' option (Options C) previously described. Using information from this revised analysis, EPA rejected Options B and C as: (1) Greater than 10% of existing indirect dischargers not covered by part 433 close at the upgrade option; or (2) the incremental compliance costs of the upgrade options were too great in terms of toxic removals (cost-effectiveness values (in 1981$) in excess of $833/PE). Therefore EPA is not revising PSES for existing indirect dischargers in the PWB subcategory. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by general pretreatment standards (part 403) and parts 413 and/or 433, as applicable. EPA also notes that facilities regulated by parts 413 and/or 433 PSES must comply with part 433 PSNS if the changes to their facilities are determined to make them new sources.

4. Pretreatment Standards for New Sources (PSNS)

EPA proposed to establish PSNS for indirect dischargers in the PWB subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA is today rejecting Option 4 technology as the basis for PSNS in the PWB subcategory.

For today's final rule EPA evaluated setting PWB PSNS based on the Option 2 technology and assessed the financial burden to new PWB indirect dischargers. Specifically, EPA's 'barrier to entry' analysis identified whether PWB PSNS based on the Option 2 technology would pose sufficient financial burden on new PWB facilities to constitute a material barrier to entry into the MP&M point source category.

EPA projects a barrier to entry for PWB PSNS based on the Option 2 technology as 3% of PWB indirect dischargers have after-tax compliance costs between 1 to 3% of revenue and 4% have after-tax compliance costs greater than 5% of revenue. Consequently, EPA is today rejecting Option 2 technology as the basis for PSNS in the PWB subcategory. EPA has selected ''no further regulation'' for new PWB indirect dischargers and is not revising PSNS for new PWB indirect dischargers. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by local limits, general pretreatment standards (part 403), and part 433, as applicable. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

D. Non-Chromium Anodizing Subcategory

EPA is not revising limitations or standards for any facilities that would have been subject to this subcategory. Such facilities will continue to be regulated by the General Pretreatment Standards (part 403), local limits, permit limits, and parts 413 and/or 433, as applicable.

1. BPT/BCT/BAT

As previously discussed, after publication of the June 2002 NODA EPA

conducted another review of all NCA facilities in the MP&M questionnaire database to determine the destination of discharged wastewater (*i.e.,* either directly to surface waters or indirectly to POTWs or both) and the applicability of the final rule to discharged wastewaters. As a result of this review, EPA did not identify any NCA direct discharging facilities or NCA facilities that do not discharge wastewater (*i.e.,* zero discharge or contract haulers) or do not use process water (dry facilities) in its rulemaking record. All of the NCA facilities in EPA's database are indirect dischargers. Therefore, EPA cannot evaluate treatment systems at direct dischargers. As a result, EPA transferred cost and pollutant loading data from the best performing indirect facilities in order to evaluate direct discharging limitations in this subcategory.

In 2001, EPA proposed to establish BPT/BCT/BAT limitations for direct dischargers in the NCA subcategory based on the Option 2 technology. EPA evaluated the cost of effluent reductions, quantity of pollutant reductions, and the economic achievability of compliance with BPT/BCT/BAT limitations based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, the costs of the Option 2 technology were disproportionate to the projected toxic pollutants reductions (cost-effectiveness values (in 1981$) in excess of $1,925/PE).

EPA decided not to establish BPT/BCT/BAT limitations based on the Option 2 technology for the NCA subcategory for following reasons: (1) EPA identified no NCA direct dischargers; and (2) the costs of Option 2 are disproportionate to the estimated toxic pollutant reductions (*i.e.,* $1,925/PE). EPA concludes that for existing direct dischargers in the NCA subcategory, Option 2 is not the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable. EPA has decided not to establish new BPT, BCT, or BAT limitations for existing NCA direct dischargers based on the Option 2 technology. EPA identified no NCA direct dischargers through its survey efforts. However, if such facilities do exist, they would be subject to part 433.

2. New Source Performance Standards (NSPS)

EPA proposed to establish NSPS for direct dischargers in the NCA subcategory based on the Option 2 technology. For today's final rule EPA evaluated setting NCA NSPS based on the Option 2 technology and assessed the financial burden to new NCA direct dischargers. Specifically, EPA's 'barrier to entry' analysis identified whether NCA NSPS based on the Option 2 technology would pose sufficient financial burden on new NCA facilities to constitute a material barrier to entry into the MP&M point source category.

EPA projects a barrier to entry for NCA NSPS based on the Option 2 technology as approximately 26% of NCA direct dischargers have new source compliance costs that are between 3% and 5% of revenue. Consequently, EPA is today rejecting Option 2 technology as the basis for NSPS in the NCA subcategory. EPA has selected ''no further regulation'' for new NCA direct dischargers and is not revising NSPS for new NCA direct dischargers, which will remain subject to part 433. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

3. Pretreatment Standards for Existing and New Sources (PSES/PSNS)

EPA proposed ''no further regulation'' for existing and new indirect dischargers in the NCA subcategory. EPA based this decision on the economic impacts to indirect dischargers associated with Option 2 and the small quantity of toxic pollutants discharged by facilities in this subcategory, even after a economically-achievable flow cutoff is applied (*see* 66 FR 467). For the reasons set out in the 2001 proposal, EPA has decided not to establish new regulations and is not establishing PSES or PSNS in the NCA subcategory. These facilities remain subject to parts 413 or 433, or both, as applicable. EPA also notes that facilities regulated by parts 413 and/or 433 PSES must comply with part 433 PSNS if the changes to their facilities are determined to make them new sources.

E. Steel Forming & Finishing Subcategory

EPA is not revising limitations or standards for any facilities that would have been subject to this subcategory. Such facilities will continue to be regulated by the General Pretreatment Standards (part 403), local limits, permit limits, and Iron & Steel effluent limitations guidelines (part 420) as applicable.

1. BPT/BCT/BAT

EPA proposed to establish BPT/BCT/BAT for existing direct dischargers in the SFF subcategory in this part (40 CFR part 438) based on the Option 2 technology (*see* section VI.A for a description of Option 2). For the final rule, EPA evaluated the cost of effluent reductions, pollutant reductions, and the economic achievability of compliance with BPT/BCT/BAT limitations based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA determined that the compliance costs of Option 2 are not economically achievable. EPA estimates that compliance with BPT/BCT/BAT limitations based on the Option 2 technology will result in the closure of 17% of the existing direct dischargers in this subcategory (7 of 41 existing SFF direct dischargers). EPA concludes that for existing direct dischargers in the SFF subcategory, Option 2 is not the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable, and therefore, EPA is not establishing new BPT, BCT, or BAT limitations for existing SFF direct dischargers based on the Option 2 technology. These facilities will remain subject to part 420.

2. New Source Performance Standards (NSPS)

EPA proposed to establish NSPS for new direct dischargers in the SFF subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA is today rejecting Option 4 technology as the basis for NSPS in the SFF subcategory. EPA has selected ''no further regulation'' for new SFF direct dischargers and is not revising NSPS for new SFF direct dischargers, which will remain subject to part 420.

3. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the SFF subcategory based on the Option 2 technology. Based on the revisions and corrections to the EPA Cost & Loadings

Model discussed in the NODA and in section IV.B.1 of today's final rule, EPA estimates that compliance with PSES based on the Option 2 technology will result in the closure of 9% of the existing indirect dischargers in this subcategory (10 of 112 existing SFF indirect dischargers). Option 2 technology is not economically achievable.

EPA has determined that Option 2 technology is not the best available technology economically achievable for existing indirect dischargers in the SFF subcategory, and therefore EPA is not revising PSES for this subcategory based on the Option 2 technology. Wastewater discharges to POTWs from these facilities will remain regulated by general pretreatment standards (part 403) and part 420.

4. Pretreatment Standards for New Sources (PSNS)

EPA proposed to establish PSNS for indirect dischargers in the SFF subcategory based on the Option 4 technology. Option 4 technology is similar to Option 2 (including Option 2 flow control and pollution prevention) but includes oils removal using ultrafiltration and solids separation by a microfilter (instead of a clarifier). As explained in section VI.A.4, EPA concluded its database is insufficient to support a determination that the Option 4 standards are technically achievable. Consequently, EPA is today rejecting Option 4 technology as the basis for PSNS in the SFF subcategory. EPA has selected ''no further regulation'' for new SFF indirect dischargers and is not revising PSNS for new SFF indirect dischargers. These facilities will remain subject to part 420.

F. Oily Wastes Subcategory

EPA is promulgating limitations and standards for existing and new direct dischargers in the Oily Wastes subcategory based on the proposed Option 6 technology (*see* section VI.F.1). EPA is not promulgating pretreatment standards for existing or new indirect dischargers in this subcategory.

1. Best Practicable Control Technology (BPT)

EPA is establishing BPT pH limitations and daily maximum limitations for two pollutants, oil and grease as hexane extractable material (O&G (as HEM)) and total suspended solids (TSS), for direct dischargers in the Oily Wastes subcategory based on the proposed technology option (Option 6). Option 6 technology includes the following treatment measures: (1) in-process flow control and pollution prevention; and (2) chemical emulsion breaking followed by oil water separation (*see* section 9 of the TDD for today's final rule for additional details on the Option 6 technology).

The Agency concluded that the Option 6 treatment technology represents the best practicable control technology currently available and should be the basis for the BPT Oily Wastes limitations for the following reasons. First, this technology is available technology readily applicable to all facilities in the Oily Wastes subcategory. Approximately 42% of the direct discharging facilities in the Oily Wastes subcategory currently employ the Option 6 technology. Second, the cost of compliance with these limitations in relation to the effluent reduction benefits is not wholly disproportionate. None of these wastewater discharges are currently subject to national effluent limitations guidelines and the final rule will control wastewater discharges from a significant number of facilities (2,382 facilities).

EPA estimates that compliance with BPT limitations based on Option 6 technology will result in no closures of the existing direct dischargers in the Oily Wastes subcategory. Moreover, the adoption of this level of control will represent a significant reduction in pollutants discharged into the environment by facilities in this subcategory. For facilities in the Oily Wastes subcategory at Option 6, EPA estimates an annual compliance cost of $13.8 million (pre-tax, 2001$) and 480,325 pounds of conventional pollutants removed from current discharges into the Nation's waters at a cost of $28.73/pound-pollutant removed (2001$) (*see* Table VII–1). EPA has, therefore, determined the total cost of effluent reductions employing the Option 6 technology are reasonable in relation to the effluent reduction benefits. (In estimating the pounds of pollutant removed by implementing Option 6 technology for direct dischargers in the Oily Wastes subcategory, EPA used the sum of O&G (measured as HEM) and TSS pounds removed to avoid any significant double counting of pollutants).

The 2001 proposal also contains detailed discussions explaining why EPA rejected BPT limitations based on other BPT technology options (*see* 66 FR 457). The information in the record for today's final rule provides no basis for EPA to change this conclusion.

In the 2001proposal, in addition to pH, O&G (as HEM), and TSS, EPA also proposed to regulate sulfide. In today's final rule, EPA has not established a sulfide limitation because it may serve as a treatment chemical (*see* TDD). EPA also proposed three alternatives to control discharges of toxic organics in MP&M process wastewaters: (1) Meet a numerical limit for the total sum of a list of specified organic pollutants (similar to the Total Toxic Organic (TTO) parameter used in the Metal Finishing Effluent Limitations Guidelines); (2) meet a numerical limit for Total Organic Carbon (TOC) as an indicator parameter; or (3) develop and certify the implementation of an organic chemicals management plan. EPA evaluated the analytical wastewater and treatment technology data from OWS facilities and concluded it should not establish a separate indicator parameter or control mechanism for toxic organics. Optimizing the separation of oil and grease from wastewater using the Option 6 technology will similarly optimize the removal of toxic organic pollutants amenable to this treatment technology. Consequently, EPA is effectively controlling toxic organics and other priority and non-conventional pollutant discharges in OWS process wastewaters by regulating O&G (as HEM).

In its analyses, EPA estimated that facilities will monitor once per month for O&G (as HEM) and TSS. EPA expects that 12 data points for each pollutant per year will yield a meaningful basis for establishing compliance with the promulgated limitations through long-term trends and short-term variability in O&G (as HEM) and TSS pollutant discharge loading patterns.

Although EPA is not changing the technology basis from that proposed, EPA is revising all of the proposed Oily Wastes subcategory BPT limitations. This is a result of a recalculation of the limitations after EPA revised the data sets used to calculate the promulgated limitations to reflect changes including corrections and additional data (*see* 67 FR 38754).

2. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than adopted for BPT, and whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.'' EPA is promulgating effluent limitations for conventional parameters (*e.g.,* pH, TSS, O&G) equivalent to BPT for this subcategory because it identified no technologies that can achieve greater removals of conventional pollutants

than the selected BPT technology basis that also pass the BCT cost test. EPA evaluated the addition of ultrafiltration technology to the BPT technology basis as a means to obtain further O&G reductions. However, this technology option failed the BCT cost test. For a more detailed description of the BCT cost test and details on EPA's analysis, see Chapter 4 of the EEBA.

3. Best Available Technology Economically Achievable (BAT)

EPA proposed to control toxic and non-conventional pollutants by establishing BAT limitations based on Option 6 technology. EPA has now decided not to establish BAT toxic and non-conventional limitations based on the Option 6 technology. As described in section VI.F.1, the BPT technology basis is readily available, and the limitations are cost reasonable. However the additional costs associated with compliance with Option 6-generated BAT limitations are not warranted. EPA has determined that these costs—primarily monitoring costs—are not warranted in view of the small quantity of additional effluent reduction (if any) the BAT limitations would produce. As explained above, EPA has determined that, the BPT limitation on O&G (measured as HEM) will effectively control toxic and non-conventional discharges in OWS process wastewaters. EPA has not identified any more stringent economically-achievable treatment technology option beyond BPT technology (Option 6) which it considered to represent BAT level of control applicable to Oily Wastes subcategory facilities.

For the reasons explained above, EPA has concluded that it should not establish BAT limitations for specific pollutant parameters for Oily Waste operations. EPA notes that permit writers retain the authority to establish, on a case-by-case basis under section 301(b)(1)(C) of the CWA, toxic effluent limitations that are necessary to meet State water quality standards.

4. New Source Performance Standards (NSPS)

EPA is promulgating NSPS that would control pH and the same conventional pollutants controlled at the BPT and BCT levels. The selected technology basis for NSPS for this subcategory for today's final rule is Option 6. This is unchanged from the proposal. EPA projects no barrier to entry for new source direct dischargers associated with Option 6 as: (1) Option 6 technology is currently used at existing direct dischargers (*i.e.,* Option 6 technology is technically available); and (2) there is no barrier to entry for new sources.

EPA evaluated the economic impacts for existing direct dischargers associated with compliance with limitations based on Option 6 and found Option 6 to be economically achievable (no closures projected). EPA expects compliance costs to be lower for new sources as new sources can use Option 6 technology without incurring retrofitting costs (as is required for some existing sources). Additionally, EPA projects no barrier to entry for OWS NSPS based on the Option 6 technology as approximately 97% of OWS direct dischargers have after-tax compliance costs less than 1% of revenue and 3% have after-tax compliance costs between 1 to 3% of revenue.

Consequently, EPA selected Option 6 technology as the basis for NSPS in the OWS. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

In addition, EPA also evaluated and rejected more stringent technology options for OWS NSPS (*i.e.,* Options 8 and 10). EPA reviewed its database for the Option 8 and 10 technologies and found that the database for Option 8 and 10 technologies is insufficient (*i.e.,* no available data) or the costs are not commensurate with the pollutant removals (*see* 66 FR 457). Since EPA's database did not contain Option 10 treatability data from oily subcategory facilities, EPA considered transferring limitations for Option 10 from the Shipbuilding Dry Docks or Railroad Line Maintenance subcategories. EPA ultimately rejected this approach, however, because influent wastewaters in the Shipbuilding Dry Docks or Railroad Line Maintenance subcategories are generally less concentrated and contain less pollutants than wastewaters discharged by OWS facilities.

5. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the Oily Wastes subcategory based on the Option 6 technology (*i.e.,* the same technology basis that is being promulgated for BPT/BCT/NSPS for this subcategory) with a ''low-flow'' exclusion of 2 MGY to reduce economic impacts on small businesses and administrative burden for control authorities. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's final rule, and previously discussed, EPA determined that the toxic pollutant reductions are very expensive in dollars per toxic pounds removed. The cost-effectiveness value (in 1981$) for Option 6 for indirect dischargers in the Oily Wastes subcategory is in excess of $3,500/PE removed. This suggests that the technology is not truly ''available.'' EPA has determined that Option 6 technology with a 2 MGY low-flow cutoff is not the best available technology economically achievable for existing indirect dischargers in the OWS. Therefore, EPA is not establishing PSES for this subcategory based on Option 6 technology with a 2 MGY low-flow cutoff.

As discussed in the June 2002 NODA (*see* 67 FR 38804), EPA also considered alternative options for which economic impacts could be less costly than Option 6 technology with a 2 MGY low-flow cutoff. These options potentially have compliance costs more closely align with toxic pollutant reductions. EPA considered the following alternative options for today's final rule:

Option A: No regulation;

Option B: Option 6 with a higher low-flow exclusion;

As discussed in section IV.B.1 of today's final rule, based on comments, EPA has revised its methodology for estimating compliance costs and pollutant loadings for Option 6, and higher low-flow exclusions (Option B) previously described. Using information from this revised analysis, EPA concludes that none of the alternative low-flow exclusions (even as high as 6.25 MGY) represented ''available technology'' because the costs associated with these alternatives were not commensurate with the projected toxic pollutants reductions. Therefore, EPA is not establishing PSES for existing indirect dischargers in the Oily Wastes subcategory (Option A). Since EPA did not identify another technology basis that was more cost-effective, EPA is not promulgating PSES for existing indirect dischargers in the Oily Wastes subcategory. These facilities remain subject to the General Pretreatment regulations (40 CFR part 403) and local limits, as applicable.

6. Pretreatment Standards for New Sources (PSNS)

EPA proposed to establish PSNS for indirect dischargers in the Oily Wastes subcategory based on the Option 6 technology (*i.e.,* the same technology basis that is being promulgated for NSPS for this subcategory) with a ''low-flow'' exclusion of 2MGY to reduce economic impacts on small businesses

and reduce administrative burden to POTWs.

For today's final rule EPA evaluated setting OWS PSNS based on Option 6 technology and assessed the financial burden of OWS PSNS based on Option 6 technology on new OWS indirect dischargers. Specifically, EPA's 'barrier to entry' analysis identified whether OWS PSNS based on Option 6 technology would pose sufficient financial burden on new OWS facilities to constitute a material barrier to entry into the MP&M point source category.

EPA projects a barrier to entry for OWS PSNS based on Option 6 technology as approximately as 1% of OWS indirect dischargers have after-tax compliance costs between 1 to 3% of revenue and 5% have after-tax compliance costs between 3 to 5% of revenue. Consequently, EPA is today rejecting Option 6 technology as the basis for PSNS in the OWS. EPA has selected ''no further regulation'' for new OWS indirect dischargers and is not revising PSNS for new OWS indirect dischargers. Wastewater discharges to POTWs from facilities in this subcategory will remain regulated by local limits and general pretreatment standards (part 403), as applicable. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

G. Railroad Line Maintenance Subcategory

EPA is not establishing limitations or standards for any facilities that would have been subject to this subcategory. Permit writers and control authorities will establish controls using BPJ to regulate wastewater discharges from these facilities.

1. Best Practicable Control Technology (BPT)

For today's final rule EPA evaluated setting BPT limitations for two pollutants, TSS and O&G (as HEM), for direct dischargers in the RRLM subcategory based on a different technology basis from that proposed in 2001. EPA proposed Option 10 technology (*see* section VI.H.1 for a description) as the technology basis for BPT. However, as discussed in the NODA, EPA considered promulgating limitations for the final rule based on the Option 6 technology for the RRLM subcategory (*see* 67 FR 38804). Option 6 technology includes the following: (1) in-process flow control and pollution prevention; and (2) chemical emulsion breaking followed by oil water separation (*see* section 9 of the TDD for today's final rule for additional details on the Option 6 technology).

For the RRLM subcategory, EPA changed the technology basis considered for the final rule and eliminated consideration of regulating BOD_5 based on comments and data submitted by the American Association of Railroads (AAR). This organization is a trade association which currently represents all facilities in this subcategory. As discussed in the NODA (*see* 67 FR 38755), for each RRLM direct discharging facility known to them, AAR provided current permit limits, treatment-in-place, and summarized information on each facility's measured monthly average and daily maximum values. AAR also provided a year's worth of long-term monitoring data for each facility (*see* section 15.1 of the public record for the AAR surveys). This data shows that, contrary to EPA's initial findings in the 2001 proposal, most RRLM direct dischargers treat their wastewater by chemical emulsion breaking/oil water separation (Option 6). Based on this updated information, EPA is today rejecting Option 10 as the technology basis for BPT. The 2001 proposal also contains detailed discussions on why EPA rejected BPT limitations based on other BPT technology options (*see* 66 FR 451). The information in the record for today's final rule provides no basis for EPA to change this conclusion.

As previously discussed, after publication of the June 2002 NODA EPA also conducted another review of all RRLM facilities in the MP&M questionnaire database to determine the destination of discharged wastewater (*i.e.,* either directly to surface waters or indirectly to POTWs or both) and the applicability of the final rule to discharged wastewaters. As a result of this review, EPA determined its questionnaire database did not accurately represent direct dischargers in this subcategory. Consequently, for today's final rule EPA used the information supplied by AAR as a basis for its analyses and conclusions on direct dischargers in this subcategory.

AAR provided information on 27 facilities. EPA reviewed the information on each of these facilities to ensure they were direct dischargers, discharged wastewaters resulting from operations subject to this final rule, and discharged ''process'' wastewaters as defined by the final rule. As a result of this review, EPA concluded 18 of the facilities for which AAR provided information do not directly discharge wastewaters exclusively from oily operations (*see* section V.A). Therefore, EPA's final database consists of 9 direct discharging RRLM facilities. EPA considered promulgating BPT limitations for these 9 direct discharging RRLM facilities based on the Option 6 technology. The Agency made the following conclusions during its evaluation of Option 6 for this subcategory.

First, this technology is readily applicable to all facilities in the RRLM subcategory. All direct discharging facilities in the RRLM subcategory currently employ wastewater treatment equivalent or better than chemical emulsion breaking/oil water separation (Option 6). Second, EPA estimates that compliance with BPT limitations based on Option 6 technology will result in no closures of the existing direct dischargers in the RRLM subcategory. Moreover, none of the facilities identified by AAR are small businesses as defined by the Small Business Administration (SBA). Third, most of the RRLM facilities identified by AAR have NPDES daily maximum permit limitations for O&G (as HEM) and TSS as 15 and 45 mg/L, respectively. Based on AAR survey information, EPA concludes that these O&G (as HEM) and TSS daily maximum limits represent the average of the best performances of facilities utilizing Option 6 technology.

EPA evaluated the compliance costs and load reductions associated with establishing BPT daily maximum limitations equivalent to 15 and 45 mg/L for O&G (as HEM) and TSS, respectively. EPA concluded that all of the facilities identified by AAR currently meet a daily maximum oil and grease limit of 15 mg/L and most currently monitor once per month. Therefore, EPA estimates no pollutant load reductions and minimal incremental annualized compliance costs for the monitoring associated with a BPT daily maximum limitation equivalent to 15 mg/L for O&G (as HEM). For TSS, with the exception of one facility, all RRLM facilities identified by AAR currently meet a daily maximum limit of 45 mg/L. For this one facility, EPA estimates the TSS pollutant loadings reductions associated with a BPT daily maximum limitation equivalent to 45 mg/L to be less than 1 pound of TSS per day. Given the fact that the few facilities in this subcategory are already essentially achieving the limitations under consideration, EPA has determined that additional national regulation is not warranted. As a result of this analysis, EPA concludes that it is more appropriate to address permits limitations for this industry on a case-by-case basis and that additional national regulation of direct discharges

in the RRLM subcategory at this time is unwarranted.

2. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT, EPA considers whether there are technologies that achieve greater removals of conventional pollutants than adopted for BPT, and whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.'' For a more detailed description of the BCT cost test and details of EPA's analysis, see Chapter 4 of the EEBA.

For the reasons discussed above, EPA is not establishing BCT limitations for the RRLM subcategory.

3. Best Available Technology Economically Achievable (BAT)

As proposed, EPA is not establishing BAT regulations for the RRLM subcategory. EPA did not propose BAT regulations because the Agency concluded that facilities in this subcategory discharge very few pounds of toxic pollutants. EPA estimates that six facilities discharge 34 PE per year to surface waters, or about 6 PE per year per facility. The Agency based the loadings calculations on EPA sampling data, which found very few priority toxic pollutants at treatable levels in raw wastewater. EPA has received no data or information during the rulemaking that contradicts these conclusions. Therefore, nationally-applicable regulations for toxic and nonconventional pollutants are unnecessary at this time and direct dischargers will remain subject to permit limitations for toxic and nonconventional pollutants established on a case-by-case basis using BPJ.

4. New Source Performance Standards (NSPS)

EPA proposed setting NSPS based on Option 10 technology for this subcategory. For today's final rule EPA considered setting RRLM NSPS based on Option 10 technology and assessed the financial burden of RRLM NSPS based on Option 10 technology on new RRLM direct dischargers. Specifically, EPA's ''barrier to entry'' analysis identified whether RRLM NSPS based on Option 10 technology would pose sufficient financial burden as to constitute a material barrier to entry into the MP&M point source category.

EPA projects no barrier to entry for RRLM NSPS based on Option 10 technology as: (1) Option 10 technology is currently used at existing RRLM direct dischargers (*i.e.*, Option 10 technology is technically available); and (2) all RRLM direct dischargers have new source compliance costs that are less than 1% of revenue. However, EPA is not promulgating RRLM NSPS based on the Option 10 technology as EPA concludes that it is more appropriate to address limitations for this industry on a case-by-case basis and that national regulation of direct discharges in the RRLM subcategory at this time is unwarranted. *See* section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

5. Pretreatment Standards for Existing and New Sources (PSES/PSNS)

EPA proposed not to establish pretreatment standards for existing and new indirect dischargers in the RRLM subcategory based on the small quantity of toxic pollutants discharged to the environment (after POTW treatment) by facilities in this subcategory (*i.e.*, approximately 2 PE removed annually per facility (*see* 66 FR 470–471)). For the same reasons set out in the 2001 proposal, EPA is not promulgating pretreatment standards for existing or new indirect dischargers in this subcategory. These facilities remain subject to the General Pretreatment regulations (40 CFR part 403) and local limits.

H. Shipbuilding Dry Dock Subcategory

EPA is not establishing limitations or standards for any facilities that would have been subject to this subcategory. Permit writers and control authorities will establish controls using BPJ to regulate wastewater discharges from these facilities.

1. BPT/BCT/BAT/NSPS

At the time of the 2001 proposal, EPA identified 6 direct discharging shipbuilding dry dock facilities with multiple discharges. Based on the information in the database at that time, discharges from these facilities contained minimal concentrations of toxic organic and metals pollutants (<9 PE/facility), but substantial quantities of conventional pollutants, particularly oil and grease. Consequently, EPA proposed to establish BPT limitations and NSPS for only two pollutants, TSS and O&G (as HEM), for direct dischargers in the SDD subcategory based on Option 10 technology. This technology includes the following: (1) in-process flow control and pollution prevention; and (2) oil-water separation by chemical emulsion breaking and oil-water separation by dissolved air flotation (*see* section 9 of the TDD for today's final rule for additional details on the Option 10 technology). EPA proposed this technology basis because some existing SDD facilities use this technology and it projected significant reductions in conventional pollutants and determined these reductions were cost reasonable.

Following proposal, EPA received comments and supporting data indicating that its estimates of current pollutant discharges from this subcategory were overestimated. In particular, commentors claimed that current discharges of oil and grease were minimal and that national regulation was not warranted for this subcategory.

For today's final rule, EPA incorporated the additional information provided by commentors into its analysis. EPA continues to conclude that there are six direct discharging shipbuilding dry dock facilities. However, EPA now concludes that direct discharges from these facilities generally contain minimal levels of all pollutants. In particular, EPA's database indicates that regulation of oil and grease in direct discharges from shipbuilding dry docks is unwarranted because current oil and grease discharges from these facilities are not detectable (<5 mg/L) or nearly not detectable. EPA has similarly determined that it should not establish nationally applicable limitations and standards for TSS because TSS discharges are, on average, minimal. The data show that TSS discharges may increase episodically, particularly when the dry dock is performing abrasive blasting operations cleaning. However, EPA has concluded that these episodic discharges from six facilities do not warrant national regulation.

Therefore, nationally-applicable regulations for new and existing SDD direct dischargers are unnecessary at this time and these facilities will remain subject to permit limitations established on a case-by-case basis using BPJ.

2. Pretreatment Standards for Existing and New Sources (PSES/PSNS)

EPA proposed not to establish pretreatment standards for existing and new indirect dischargers in the SDD subcategory based on the small number of facilities in this subcategory and on the small quantity of toxic pollutants removed by the technology options evaluated by EPA at proposal (*i.e.*, less than 26 PE removed annually per facility (*see* 66 FR 471)). For the same reasons set out in the 2001 proposal,

EPA is not promulgating pretreatment standards for existing or new indirect dischargers in this subcategory. These facilities remain subject to the General Pretreatment regulations (40 CFR part 403) and local limits.

VII. Pollutant Reduction and Compliance Cost Estimates

A. Pollutant Reductions

Presented in this section are the pollutant reductions obtainable through the application of Option 6 technology that form the basis of the effluent limitations guidelines for the Oily Wastes subcategory promulgated today. This section summarizes these estimated reductions. Section 12 of the TDD includes the estimated pollutant reductions for options considered but not promulgated, and discusses the loadings determination methodology in detail.

Today's final rule does not establish PSES for any dischargers to POTWs in the MP&M point source category. Therefore, EPA does not project any pollutant reductions from POTWs as a result of today's rule. The following pollutant reductions are related to direct dischargers in the Oily Wastes subcategory.

1. Conventional Pollutant Reductions

The Agency estimates that this regulation will reduce discharges of TSS and O&G (as HEM) by approximately 500,000 pounds per year (*see* Table VII–1).

TABLE VII–1.—REDUCTION IN DIRECT DISCHARGE OF CONVENTIONAL POLLUTANTS AFTER IMPLEMENTATION OF BPT/BCT REGULATIONS PROMULGATED TODAY

Subcategory	Oil and grease pounds/year	Total suspended solids pounds/year	Oil and grease and total suspended solids pounds/year
Oily Wastes	396,079	84,246	480,325

2. Priority and Non-conventional Pollutant Reductions

The Agency did not estimate the reductions in priority and non-conventional metals and organic pollutants because the Agency did not have sufficient COD or other non-conventional data to estimate baseline pollutant discharges. The Agency does expect some non-conventional pollutant removals at OWS facilities complying with limitations and standards based on Option 6 technology.

B. Regulatory Costs

Presented in this section are the regulatory costs EPA projects through the application of Option 6 technology that form the basis of the effluent limitations guidelines for the Oily Wastes subcategory promulgated today. This section summarizes these estimated costs. Section 11 of the TDD includes the estimated regulatory costs for options considered but not promulgated, and discusses the costing methodology in detail.

This preamble, TDD, and EEBA express all cost estimates in this section in terms of 2001 dollars. The cost components reported in this section represent estimates of the investment cost of purchasing and installing equipment, the annual operating and maintenance costs associated with that equipment, additional land requirement costs associated with new equipment, and additional costs for discharge monitoring.

1. Direct Discharge Facilities

Table VII–2 shows the costs EPA estimated for existing direct dischargers in the Oily Wastes subcategory to comply with the BPT/BCT limitations promulgated today.

TABLE VII–2.—ESTIMATED COSTS FOR BPT/BCT

Subcategory	Number of facilities	Total capital and land costs (2001$, millions)	Annual O&M costs (2001$, millions)	Annualized compliance costs (2001$, millions)
Oily Wastes	2,382	6.5	13.1	13.8

2. Indirect Discharge Facilities

Because today's final rule does not establish PSES for any dischargers in the MP&M industry, EPA has not projected compliance costs for facilities that discharge indirectly to POTWs.

VIII. Economic Analyses

A. Introduction and Overview

This section of the preamble presents EPA's estimates of the private and social costs of the regulation, and the expected economic impacts of compliance with the regulation. Measures of economic impact include facility closures and associated losses in employment, firm-level impacts, impacts on government-owned facilities, local community impacts, and international trade. An analysis of impacts on small businesses supports EPA's compliance with the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). Section XII.C of this preamble discusses RFA/SBREFA issues. EPA's complete assessment of costs and economic impacts including results for the alternative regulatory options can be found in ''*Economic, Environmental, & Benefit Analysis of the Final Metal Products & Machinery Rule''* (hereafter referred to as the ''EEBA'').

EPA based its regulatory decisions for the final MP&M rule in part on the findings from the facility impact analyses reported in the EEBA and discussed in this section. The economic impact analyses assess how facilities will be affected financially by the final MP&M rule. Key outputs of the facility impact analysis include expected facility closures in the MP&M industries, associated losses in employment, and the number of facilities experiencing financial stress short of closure (''moderate impacts''). The findings from the facility impact analysis also provide the basis for the following analyses:

- A firm-level analysis, which assesses the impact on the financial performance and condition of firms owning MP&M facilities;
- An analysis of impacts on government-owned facilities, which assesses the impact on the financial performance and condition of government entities that own and operate at least one MP&M site;
- An employment effects analysis, which assesses the increase in employment associated with compliance activities, the loss of employment due to facility closures, and the net effect on overall employment;
- A community impact analysis, which assesses the potential impact of employment changes in communities where MP&M facilities are located; and
- A foreign trade analysis, which assesses the effect of the regulation on the U.S. balance of trade.

EPA performed economic impact analyses for three groups of facilities, using different methodologies to evaluate impacts on each group. The three groups are:

- Privately-owned MP&M Facilities, including privately-owned facilities that do not perform railroad line maintenance and are not owned by governments. This major category includes privately-owned businesses in a wide range of sectors or industries, including the segment of facilities that manufacture and rebuild railroad equipment.
- Railroad line maintenance facilities that maintain and repair railroad track, equipment and vehicles.
- Government-owned MP&M facilities operated by municipalities, State agencies and other public sector entities such as State universities and Federal facilities. Many of these facilities repair, rebuild, and maintain buses, trucks, cars, utility vehicles (*e.g.*, snow plows and street cleaners), and light machinery.

The facility impact analysis starts with compliance cost estimates from the EPA engineering analysis and then calculates how these compliance costs would affect the financial condition of MP&M facilities. EPA made several changes to the facility impact methodology between proposal (*see* 66 FR 424) and final regulation. The NODA (*see* 67 FR 38752) and section IV.B.3 of this preamble document these changes, which to a large degree address comments on the proposal impact methodology. The major changes to the economic impact analyses include: (1) Using sector-specific thresholds for the moderate impact analysis tests; (2) using a single financial test, based on net present value, to assess the potential for closures (this test excludes consideration of liquidation values for all MP&M facilities, including the 219 facilities that reported them in their response to the MP&M survey); and (3) using estimated baseline capital outlays in the calculation of cash flow for the net present value test. Other changes to the economic impact methodology include: (1) Using revised cost pass-through coefficients; (2) using sector-specific price indices in updating survey data; and (3) limiting post-compliance tax shields to no greater than reported baseline taxes.

In conducting the facility impact analysis, EPA first eliminated from the analysis those facilities showing materially inadequate financial performance in the baseline, that is, in the absence of the rule. EPA judged these facilities, which are referred to as baseline closures, to be at substantial risk of financial failure regardless of any financial burdens that may result from the MP&M rule. Second, for the remaining facilities, EPA evaluated how compliance costs would likely affect facility financial health. In this analysis of compliance cost impact, EPA accounted for potential price increases that may help facilities cover the cost of compliance. EPA based its estimate of potential price increases on a cost pass-through analysis that estimates how prices might change in response to regulation-induced production cost increases. EPA identified a facility as a regulatory closure if it would have operated under baseline conditions but would fall below an acceptable financial performance level under the new regulatory requirements.

EPA also identified facilities that would likely incur moderate impacts from the rule but that are not expected to close as a result of the rule. EPA used a different methodology to assess moderate impacts for each of three types of MP&M facilities: privately-owned MP&M facilities, railroad line maintenance facilities, and government-owned facilities. EPA established thresholds for two measures of financial performance—interest coverage ratio and pre-tax return on assets—and compared the facilities' performance before and after compliance under each regulatory option with these thresholds. EPA attributes incremental moderate impacts to the rule if both financial ratios exceeded threshold values in the baseline (*i.e.*, there were no moderate impacts in the baseline), but at least one financial ratio fell below the threshold value in the post-compliance case. EPA refers the reader to the full EEBA report for a detailed discussion of the economic impact methodology used for each of these types of MP&M facilities.

B. Economic Costs of Technology Options by Subcategory

The TDD for the final rule presents EPA's engineering estimates of costs that will be incurred by facilities to comply with the final regulation, and the costs for other regulatory options. EPA adjusted the engineering costs from 1996 to 2001 dollars using the *Engineering News-Record* Construction Cost Index (CCI), and adjusted the costs to reflect the effect of taxes using a combined Federal/State corporate income tax rate of 39 percent. EPA calculated the annual equivalent of capital and other one-time costs by annualizing costs at a seven percent discount rate over an estimated 15-year equipment life.

The compliance costs of the rule are the costs incurred by those facilities that EPA estimates will continue to operate in compliance with the rule. Aggregate compliance costs presented in this section differ from the costs presented in sections VI and VII because they exclude costs for facilities that are baseline closures or that close due to regulatory requirements (*see* section VIII.D for estimates of baseline and post-compliance closures). Therefore, they represent only the compliance outlays of facilities that are estimated to continue operations. Section VIII.I presents EPA's estimates of social costs, which include costs for regulatory closures. Table VIII–1 shows the total annualized compliance costs by subcategory for the 2,382 OWS direct dischargers that are: (1) Subject to requirements; (2) make the necessary investments to meet the requirements; and (3) continue operating under the regulation. Facilities in all other subcategories are excluded from the final rule and have no incremental compliance costs.

Total annualized costs are the sum of the annual operating and maintenance costs and the annualized equivalent of capital and other one-time costs. Annualized pre-tax compliance costs in 2001 dollars are estimated at $13.8 million per year for the final rule.

TABLE VIII–1.—TOTAL ANNUALIZED FACILITY* COMPLIANCE COSTS FOR THE OILY WASTES SUBCATEGORY

[pre-tax, million $2001]

Subcategory	Final rule
Oily Wastes	$13.8

TABLE VIII–1.—TOTAL ANNUALIZED FACILITY* COMPLIANCE COSTS FOR THE OILY WASTES SUBCATEGORY—Continued

[pre-tax, million $2001]

Subcategory	Final rule
All Categories: Number of Facilities Operating in the Baseline**	2,382

*This table includes facility compliance costs only. Section VIII.I discusses the social costs of the rule. The estimates in this table exclude baseline and regulatory closures.

**This estimate can be found in section VIII.B.

C. Facility Level Economic Impacts of the Final Rule by Subcategory

1. Baseline Closure Analysis

Table VIII–2 summarizes the estimated baseline closures for direct dischargers. Based on its evaluation, EPA determined that 3,593 facilities (or 8.2 percent) of the estimated 43,858 discharging facilities are baseline closures. The 3,593 baseline closures include 3,511 indirect dischargers (97.7 percent) and 98 direct dischargers (2.7 percent). The total number of facilities classified as indirect and direct dischargers does not equal the total number of dischargers. Some facilities operate in more than one subcategory and have an indirect and direct discharging operation within the same facility. The facilities estimated to close in the baseline analysis are at substantial risk of financial failure independent of the regulation. These facilities were excluded from the post-compliance analysis of regulatory impacts. Data on facility start-ups and closures from the Census *Statistics of U.S. Businesses* indicate that between 6 and 12 percent of facilities in the major metal products manufacturing industries close in any given year. Therefore, EPA's analysis of baseline closures is consistent with this data.

TABLE VIII–2.—SUMMARY OF BASELINE CLOSURES

Subcategory	Total number of dischargers	Number of baseline closures	Percent of baseline closures %	Operating in baseline
General Metals	11,364	880	7.7	10,484
Metal Finishing Job Shops	1,542	50	3.2	1,491
Non-Chromium Anodizer	122	29	23.8	93
Oily Wastes	29,185	2,409	8.3	26,776
Printed Wiring Boards	848	239	28.2	609
Railroad Line Maintenance	826	0	0.0	831
Shipbuilding Dry Dock	14	0	0.0	14
All Subcategories*	43,858	3,593	8.2	40,265

***Note:** The reported total of facilities over all subcategories does not equal the sum of facilities by subcategory because some facilities operate in more than one subcategory and have an indirect and direct discharging operation within the same facility.

2. Facilities Subject to Regulatory Requirements

Of the estimated 40,265 discharging facilities open in the baseline, EPA estimates that 37,880 facilities (or 94 percent) will not be subject to the rule's requirements due to subcategory exclusions. The subcategory exclusions exempt 37,652 indirect dischargers in all subcategories and 259 direct dischargers in seven subcategories from the final rule.

TABLE VIII–3.—SUMMARY FACILITIES SUBJECT TO FINAL RULE

Subcategory	Operating in baseline	Number of facilities excluded	Percent of facilities excluded	Number of facilities subject to final rule
General Metals	10,484	10,484	100.0	0
Metal Finishing Job Shops	1,491	1,491	100.0	0
Non-Chromium Anodizer	93	93	100.0	0
Oily Wastes	26,776	24,394	91.1	2,382
Printed Wiring Boards	609	609	100.0	0
Railroad Line Maintenance	829	829	100.0	0
Shipbuilding Dry Dock	14	14	100.0	0
All Subcategories*	40,265	37,883	94.0	2,382

***Note:** The reported total of facilities over all subcategories does not equal the sum of facilities by subcategory because some facilities operate in more than one subcategory and have an indirect and direct discharging operation within the same facility.

3. Post-Compliance Impact Analysis

EPA estimates that none of the direct discharging facilities operating in the baseline regulation will close as a result of the MP&M rule. With no predicted facility closures, EPA expects no employment losses from the rule. EPA also expects that none of the 2,382 direct discharging facilities operating in the baseline and subject to regulatory requirements will experience moderate financial impacts due to the rule. Chapter 5 of the EEBA includes impact analysis results for alternative regulatory options that EPA considered in developing the final rule.

4. Summary of Facility Impacts

Table VIII–4 summarizes the results of the economic impact analysis for the final rule. EPA estimates that no facilities will close or experience moderate financial impacts. The table presents the annualized compliance cost on both a pre-tax and after-tax basis. The after-tax value represents the cost that privately-owned firms would incur in complying with the regulation because some of the costs are borne by the general tax-paying public through

the tax deduction permitted on privately-owned firms' compliance outlays. EPA's after-tax analyses (1) use a combined Federal/State tax rate of 39 percent, and (2) limit tax offsets to compliance costs to not exceed facility-level tax payments as reported in facility questionnaire responses.

TABLE VIII–4.—FACILITY IMPACTS FOR ALL FACILITIES

Number of Facilities Operating in Baseline	40,265
Number of facilities excluded from regulatory requirements	37,883
Number of facilities operating subject to regulatory requirements	2,382
Number of Closures (Severe Impacts)	0
Percent Closing (%)	0.0
Number of Additional Facilities with Moderate Impacts	0
Percent with Moderate Impacts (%)	0.0
Annualized Compliance Costs (pre-tax, million $2001)	$13.8
Annualized Compliance Costs (after tax, million $2001)	$11.9

D. Firm Level Impacts

EPA examined the impacts of the final rule on firms that own MP&M facilities, as well as on the financial condition of the facilities themselves. A firm that owns multiple MP&M facilities could experience adverse financial impacts at the firm level if its facilities are among those that incur significant impacts at the facility level. EPA also uses the firm-level analysis to compare impacts on small versus large firms, as required by the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. Section XII.C of this preamble discusses RFA/SBREFA issues.

EPA compared compliance costs with revenue at the firm level as a measure of the relative burden of compliance costs. EPA applied this analysis only to MP&M facilities owned by privately-owned entities. (Section VIII.E discusses impacts on governments that own MP&M facilities.) EPA estimated firm-level compliance costs by summing costs for all facilities owned by the same firm that responded to the survey plus estimated compliance costs for additional facilities for which respondents submitted information.

The Agency was not able to estimate precisely at the national level the number of firms that own MP&M facilities, because the sample weights based on the survey design represent numbers of facilities rather than firms. Most privately-owned MP&M facilities that remain open in the baseline are single-facility firms, however. These firms can be analyzed using the survey weights. In addition, 278 survey respondents report being owned by a firm that owns more than one MP&M facility. For the firm-level analysis, EPA assigned these facilities, and their owning firms, a sample weight of one, since it is not known how many firms these 278 sample facilities represent. Chapter 9 of the EEBA presents EPA's analysis of firm-level impacts.

Table VIII–5 shows the results of the firm-level analysis. The results represent a total of 26,750 MP&M firms (26,472 + 278), owning 37,424 facilities (26,472 owned by single-facility firms plus 10,953 owned by multi-facility firms).

TABLE VIII–5.—FIRM LEVEL AFTER TAX ANNUAL COMPLIANCE COSTS AS A PERCENT OF ANNUAL REVENUES FOR PRIVATELY-OWNED BUSINESSES: SELECTED REGULATORY OPTION

Number of firms in the analysis*	Number and percent with after tax annual compliance costs/annual revenues equal to:					
	Less than 1%		1 to 3%		Over 3%	
	Number	Percent	Number	Percent	Number	Percent
26,750	26,750	100.0	0	0.0	0	0.0

* Single-site firms whose only MP&M facilities close in the baseline are excluded from the firm count. To be conservative, EPA included compliance costs for facilities that are owned by multi-site firms but predicted to be baseline closures in the facility impact analysis.

EPA's analysis shows that none of the firms in the analysis incur after-tax compliance costs equal to one percent or more of annual revenues. All firms incur compliance costs less than one percent of annual revenues.

This analysis is likely to overstate costs at the firm level because it does not account for actions a multi-facility firm might take to reduce its compliance costs under the regulation. These include consolidating and/or transferring functions among facilities to consolidate wet processes and take advantage of scale economies in wastewater treatment. In some instances, such compliance responses may result in loss of employment in some facilities and possible increases in employment in others. As discussed in Chapter 5 of the EEBA report, EPA is unable to account for and analyze the full range of possible compliance actions that a firm may consider and implement in response to regulation.

E. Impacts on Government-Owned Facilities

EPA surveyed government-owned MP&M facilities to assess the cost of the regulation on these facilities and the government entities that own them (*see* 66 FR 437). A government is judged to experience major budgetary impacts if it has: (1) One or more facilities with compliance costs exceeding one percent of the baseline cost of service; (2) total debt service costs (including costs to finance MP&M capital costs entirely with debt) exceeding 25 percent of baseline revenue; and (3) post-compliance total annualized pollution control costs per household exceeding one percent of median household income. EPA discusses the methodology for assessing impacts on government-owned facilities in more detail in Chapter 7 of the EEBA report (this methodology and the impact thresholds were also used to support EPA's analysis under the Unfunded Mandates Reform Act, discussed at section XII.D of this preamble). Table VIII–6 provides national estimates of the number of MP&M facilities operated by governments that are potentially subject to the regulation, by type and size of government.

Table VIII–7 summarizes the status of government-owned facilities, their compliance costs and measures of impacts on government that own MP&M facilities.

TABLE VIII–6.—NUMBER OF GOVERNMENT-OWNED FACILITIES BY TYPE AND SIZE OF GOVERNMENT ENTITY

Size of government	Municipal government	State government	County government	Regional governmental authority	Total
Large Governments (population >50,000)	618	377	781	46	1,823
Small Governments (population <= 50,000)	1,750	.....	212	.....	1,962
All Governments	2,368	377	993	46	3,785

TABLE VIII–7.—NUMBER OF REGULATED GOVERNMENT-OWNED FACILITIES, COMPLIANCE COSTS AND BUDGETARY IMPACTS BY REGULATORY OPTION

Total Number of Government-Owned Facilities	3,785
Number of Facilities exempted by subcategory exclusions	3,327
Number of Facilities subject to regulation	458
Compliance costs ($2001 million)	$8.99
Number of Facilities with compliance costs > one percent of baseline cost of service*	162
Number of Governments failing the ''impact on taxpayers'' criterion**	0
Number of Governments failing the ''impacts on government debt'' criterion***	0
Number of Governments failing all three impacts criteria†	0

* Annualized compliance costs as a percent of total facility costs and expenditures, including operating, overhead and debt service costs and expenses.

** Based on comparison of compliance costs for all facilities owned by the government to the income of households that are served by the relevant government. A government is judged to experience impacts if the regulation results in a ratio of total annualized pollution control costs per household to median household income that exceeds one percent, post-compliance. Includes existing pollution control costs plus the compliance costs due to the MP&M rule.

*** Based on comparison of total debt service costs (including costs to finance MP&M capital costs entirely with debt) with baseline government revenue. A government is judged to experience impacts if the rule causes its total debt service payments to exceed 25% of baseline revenue.

† A government is judged to experience major budgetary impacts if it has one or more facilities with costs of compliance above 1% of baseline cost of service and fails both the taxpayers impact and government debt impact tests.

Under the final rule, an estimated 162 government-owned facilities (4.3 percent of the total) would incur costs exceeding one percent of their baseline cost of service. The residual 95.7 percent of government-owned facilities incur no costs or incur costs so low as to be readily absorbed within existing budgets. None of the governments incur costs that cause them to exceed the thresholds for impacts on taxpayers or for government debt burden. EPA therefore concludes that the regulation will not impose major budgetary burdens on any of the governments that own MP&M facilities.

F. Community Level Impacts

EPA considered the potential impacts of changes in employment due to the regulation on the communities where MP&M facilities are located. EPA does not expect any adverse community employment effects because it anticipates no rule-driven facility closures and accordingly no job losses from the rule.

G. Foreign Trade Impacts

The foreign trade impacts analysis allocates the value of changes in output, for each facility that is projected to close, to exports, imports or domestic sales, based on the dominant source of competition in each market as reported in the surveys. EPA does not expect any material foreign trade impacts as a result of the final rule because no facility closures are expected. See Chapter 8 in the EEBA for a more detailed discussion of the foreign trade impact analysis and the resulting impacts of the alternative regulatory options on foreign trade.

H. Administrative Costs

EPA also assessed the costs incurred by governments to administer the rule. The final rule only regulates direct dischargers; therefore, EPA does not expect increases in administrative costs because the National Pollution Discharge Elimination System (NPDES) permit program requires that these facilities already hold permits. However, EPA did estimate costs to POTWs for alternative options that would have regulated indirect dischargers. See Chapter 7 in the EEBA for a discussion of these estimates.

I. Social Costs

1. Components of Social Costs

The social costs of regulatory actions are the opportunity costs to society of employing scarce resources in pollution control activity. The largest component of economic costs to society is the cost incurred by MP&M facilities for the labor, equipment, material, and other economic resources needed to comply with the regulation. EPA accounts for these costs on a pre-tax basis.

Social costs may also include lost producers' and consumers' surplus that result when the quantity of goods and services produced decreases as a result of the rule. Lost producers' surplus is measured as the difference between revenues earned and the cost of production for the lost production. Lost consumers' surplus is the difference between the price paid by consumers for the lost production and the maximum amount they would have been willing to pay for those goods and services. To accurately calculate lost producers' and consumers' surplus requires knowledge of the characteristics of market supply and demand for each affected industry. EPA instead calculated an upper-bound estimate of social compliance costs using the simplifying assumption that all facilities continue operating in compliance with the rule, and pay the associated compliance costs (*i.e.*, assuming that there are no regulation-related closures.) This framework provides an upper-bound estimate of social costs, because, for facilities predicted to close, continuing to operate and to incur compliance costs is more costly than closing the facility with associated lost producers' and consumers' surplus. For the final regulation, EPA estimated that no facilities would close because of the rule. As a result, the potential effect of consumers' and producers' surplus should not be of consequence in assessing social costs.

In addition to the resource costs to society associated with compliance, the estimated social cost also includes two other elements: the cost to local governments of implementing the rule

and the cost of any unemployment that may result from the regulation. The government administration costs include the costs to POTWs of permitting and compliance monitoring and enforcement activities. The unemployment-related costs include the cost of administering unemployment programs for workers who would lose employment, and an estimate of the amount that workers would be willing to pay to avoid involuntary unemployment.

2. Resource Cost of Compliance

The resource costs of compliance are the value of society's productive resources—including labor, equipment, and materials—consumed to achieve the reductions in effluent discharges required by the final rule. On the basis of a 7 percent discount rate, EPA estimates the annualized cost of compliance at $13.8 million (2001$). This value exceeds the cost that privately-owned firms would incur in complying with the regulation because: (1) Some of the costs are borne by the general tax-paying public through the tax deduction permitted on privately-owned firms' compliance outlays and (2) some costs are passed onto consumers in the form of price increases. Although these two categories of cost are not part of the financial burden on regulated industries, they are part of the regulation's overall cost to society. EPA also estimated the annualized cost of compliance using a 3 percent discount rate and, in conjunction, an assumed 3 percent opportunity cost of capital to society. At the 3 percent discount rate, EPA estimates the annualized cost of compliance at $13.7 million (2001$).

3. Cost of Administering the Regulation

As discussed in section VIII.I of this preamble, since the final rule only regulates direct dischargers, EPA does not expect increases in administrative costs because all direct dischargers already hold permits.

4. Social Cost of Unemployment

The loss of jobs associated with any facility closures would represent a social cost of the regulation. However, from its facility impact analysis, EPA estimates that no facilities will close as a result of the regulation. Accordingly, EPA estimates a zero cost of unemployment for the final regulation. The results of this analysis for alternative regulatory options where closures are predicted can be found in Chapter 6 of the EEBA.

5. Total Social Costs

Summing across all social costs results in a total annualized social cost estimate of $13.8 million ($2001), at a 7 percent discount rate, and $13.7 million, at a 3 percent discount rate, as shown in Table VIII–8.

TABLE VIII–8.—ANNUAL SOCIAL COSTS OF THE REGULATION

[Pre-tax, million $2001]

Social cost category	Annualized @ 3%	Annualized @ 7%
Resource Value of Compliance Costs (before-tax)	$13.7	$13.8
Government Administrative Costs	$0	$0
Social Costs of Unemployment	$0	$0
Total Social Costs	$13.7	$13.8

J. Cost and Removal Comparison Analysis

The Agency is promulgating BPT limitations for the Oily Wastes subcategory. Among the factors EPA must consider when promulgating BPT limitations, section 304(b)(1)(B) of the CWA directs EPA to consider the total incremental compliance costs of the BPT technology in relation to the effluent reductions achieved by the technology. This inquiry does not limit EPA's broad discretion to adopt BPT limitations based on available technology unless the required additional reductions are wholly out of proportion to the costs of achieving the additional effluent reduction.

One cost and removal comparison ratio used by EPA is the average cost per pound of pollutant removed by a BPT regulatory option. EPA measures the cost component as pre-tax total annualized costs ($2001). For the Oily Wastes subcategory, EPA measures the effluent reduction benefits as the summation of O&G (as HEM) and TSS to avoid significant double counting of pollutants. EPA analyses show that OWS facilities largely discharge conventional pollutants. Table VIII–9 shows the incremental compliance costs, the incremental pollutant reductions, and the resulting cost and removal comparison ratio.

TABLE VIII–9.—COST AND REMOVAL COMPARISON FOR THE OILY WASTES SUBCATEGORY

[$2001/lb pollutant removed]

Subcategory	Annualized cost ($2001) (millions)	Annual pounds of pollutant removed	Cost and removal comparison ($2001/lb pollutant removed)
Oily Wastes	13.8	480,325	28.73

K. Cost-Effectiveness Analysis

In the development of best available technology effluent limitations guidelines for removals of toxic pollutants, EPA evaluates the relative efficiency of alternative regulatory options in removing toxic pollutants from the effluent discharges to the nation's waters. Because EPA is today not promulgating Oily Wastes subcategory BAT limitations based on a more stringent technology than BPT technology, EPA is not providing a cost-effectiveness analysis for the final rule, which contains only BPT limitations (*see* section VIII.J for the cost and removal comparison analysis). EPA did perform a cost-effectiveness analysis for the alternative regulatory options that would have regulated indirect dischargers; the results of this analysis are reported in the EEBA and DCN 37900, section 26.0.

IX. Water Quality Analysis and Environmental Benefits

A. Introduction and Overview

This section presents EPA's estimates of the national environmental benefits of the final MP&M effluent guidelines. The benefits occur due to the reduction in facility discharges described in section VII. The methodologies used in the estimation of benefits of the final rule are largely similar to those used for estimating benefits of the proposed rule (*see* 66 FR 424). The Notice of Data Availability (*see* 67 FR 38752) and section IV.B of today's final rule discuss revisions made to these methodologies after the publication of the proposed rule. The EEBA provides EPA's complete benefit assessment for the final rule.

EPA estimated national benefits from the regulation on the basis of sample facility data. The Agency extrapolated findings from the sample facility analyses to the national level using two alternative extrapolation methods: (1) traditional extrapolation and (2) post-stratification extrapolation. Section A.2 of today's final rule and Appendix G of the EEBA discuss the extrapolation methods used in the benefits analysis in detail.

To supplement the national level analysis performed for the final MP&M regulation, EPA also conducted a detailed case study of the expected State-level costs and benefits of the MP&M rule in Ohio. For several important reasons, EPA judges that the Ohio case study is more robust than the national benefit analyses that EPA undertakes in support of effluent guideline development. These reasons include: (1) Use of more detailed data on MP&M facilities than is possible at the national level; (2) use of more detailed and accurate water quality data than are usually available; (3) more accurate accounting for the presence and effect of multiple discharges to the same reach; (4) inclusion of data on non-MP&M discharges in the baseline and post compliance; (5) use of a first-order decay model to estimate in-stream concentrations in downstream water bodies; and (6) inclusion of an additional recreational benefit category (swimming) in the analysis.

Sections B through G of today's final rule discuss the national level benefits analyses; section H presents the Ohio case study. These sections include results only for the final rule; however, the EEBA presents results for additional options evaluated.

1. Benefit Overview

Table IX–1 summarizes the benefits categories associated with the regulation and notes which categories EPA was able to quantify and monetize. The benefits include three broad classes: human health, ecological, and economic productivity benefits. Within these three broad classes, EPA was able to assess benefits with varying degrees of completeness and rigor. Where possible, EPA quantified the expected effects and estimated monetary values. Data limitations and limited understanding of how society values certain water quality changes prevented monetizing some benefit categories.

TABLE IX–1.—BENEFIT CATEGORIES ASSOCIATED WITH WATER QUALITY IMPROVEMENTS RESULTING FROM THE METAL PRODUCTS AND MACHINERY EFFLUENT GUIDELINE

Benefit Category	Quantified and monetized	Quantified and nonmonetized	Nonquantified and nonmonetized
Human Health Benefits:			
Reduced cancer risk due to ingestion of chemically-contaminated fish and unregulated pollutants in drinking water	X		
Reduced non-cancer adverse health effects (*e.g.,* reproductive, immunological, neurological, circulatory, or respiratory toxicity) due to ingestion of chemically-contaminated fish and unregulated pollutants in drinking water		X	
Reduced non-cancer adverse health effects from exposure to lead from consumption of chemically-contaminated fish	X		
Reduced health hazards from exposure to contaminants in waters used recreationally (*e.g.,* swimming)			X
Ecological Benefits:			
Reduced risk to aquatic life		X	
Enhanced water-based recreation, including fishing, boating, and near-water (wildlife viewing) activities	X		
Other enhanced water-based recreation, such as swimming, waterskiing, and white water rafting			X
Increased aesthetic benefits, such as enhancement of adjoining site amenities (*e.g.,* residing, working, traveling, and owning property near the water)			X
Non-user value (*i.e.,* existence, option, and bequest value)	X		
Reduced contamination of sediments			X
Economic Productivity Benefits: [a]			
Benefits to tourism industries from increased participation in water-based recreation			X
Improved commercial fisheries yields			X
Reduced water treatment costs for municipal drinking water, irrigation water, and industrial process and cooling water			X

[a] The final rule regulates direct dischargers only. Therefore the selected option does not affect POTW operation. EPA, however, includes this benefit category when analyzing alternative options which considered the regulation of indirect dischargers (See Chapter 19 of the EEBA for the benefits analysis of alternative options).

2. Extrapolation Methods

EPA traditionally estimates national level costs and benefits by extrapolating analytic results from sample facilities to the national level using sample facility weights. EPA's traditional sampling approach relies on information about the economic and technical characteristics of the regulated community. Although important for understanding the technical requirements and costs of a regulation, this sampling approach does not incorporate information that could significantly affect the occurrence and

distribution of regulatory benefits, such as characteristics of the receiving water body and the size of population that may benefit from reduced pollutant discharges. As a result, the traditional sampling approach likely yields benefit estimates that are less accurate than those that could be obtained by using a sampling framework that accounts for such benefit-receptor characteristics.

EPA recognizes that using a traditional extrapolation method to estimate national level benefits may lead to a large degree of uncertainty in benefits estimates. Therefore, in addition to the traditional extrapolation method used in the proposed rule (*see* 66 FR 424), EPA has estimated national level benefits for the final rule using an alternative extrapolation method as discussed in the NODA (*see* 67 FR 38752).

In this alternative extrapolation method, post-stratification sample weighting, EPA adjusted the original sample weights using two variables that are likely to affect the occurrence and size of benefits associated with reduced discharges from sample MP&M facilities: (1) receiving water body type and size; and (2) the size of the population residing in the vicinity of the sample facility. The Agency utilized a commonly used post-stratification method calling ''raking'' to adjust original sample weights to reflect these benefit pathway characteristics. EPA used data from three data sources—EPA's Permit Compliance System database (PCS), EPA's Reach File 1, and Census Data—to develop the adjusted weights. Because of data limitations, EPA restricted the re-weighting effort only to direct dischargers and excluded indirect dischargers. Therefore, EPA performed this alternative analysis for only the selected option.

EPA used the alternative benefit estimate to validate general conclusions that EPA drew from its main analysis based on the traditional extrapolation method. Appendix G of the EEBA provides detailed discussion of this alternative extrapolation method.

In the NODA, EPA also sought public comment on a proposed second alternative extrapolation method. In this extrapolation method, EPA proposed the extrapolation of the Ohio case study results to the national level based on three key factors that affect the occurrence and magnitude of benefits: (1) The estimated change in MP&M pollutant loadings; (2) the level of recreational activities on the reaches affected by MP&M discharges; and (3) income of the affected population. The Agency recognizes that this method is not rigorous for extrapolation to the national level. Therefore, EPA used this method only as a sensitivity analysis.

Sections IX.B through IX.E of this preamble present national level benefits that are estimated based on both sample facility weights used in the engineering and economic impact analysis (traditional extrapolation method) and sample facility weights adjusted by water body and population (post-stratification extrapolation). National level benefits estimated from the Ohio case study analysis are not presented in today's final rule. These estimates can be found in Appendix G of the EEBA report.

B. Reduced Human Health Risk

EPA estimates that the final rule will prevent discharge of 18 pounds per year of carcinogens and 119 pounds per year of lead. Also, the final rule will prevent discharge of an additional 6,900 pounds of 76 pollutants of concern that are known to cause adverse non-cancer human health effects. These reduced pollutant discharges from MP&M facilities generate human health benefits in a number of ways. The most important human health benefits stem from reduced risk of illness from consumption of contaminated fish, shellfish, and water.

EPA analyzed the following measures of human health-related benefits: reduced cancer risk from fish and water consumption; reduced risk of non-cancer adverse health effects from fish and water consumption; reduced lead-related adverse health effects in children and adults; and reduced occurrence of in-waterway pollutant concentrations in excess of levels of concern. The levels of concern include human health-based ambient water quality criteria (AWQC) or documented toxic effect levels for those chemicals not covered by AWQC. The Agency monetized only two of these health benefits: (1) Changes in the incidence of cancer resulting from reduced exposure to carcinogens in fish and drinking water and (2) changes in adverse non-cancer health effects in children and adults resulting from reduced exposure to lead in fish. EPA monetized human health benefits by estimating the change in the expected number of individuals experiencing adverse human health effects in the populations exposed to MP&M discharges. For carcinogens that have linear dose-response relationships, it is feasible to estimate the incremental cancer incidence in a population from the estimate of mean individual risk for the population and the number of individuals in the population. However, for health effects with non-linear dose-response relationships and thresholds (*e.g.,* non-cancer health effects), estimating population risk is computationally more complex and was not proposed (*see* Table IX–1).

The national-level analysis of human health benefits finds negligible monetized benefits from the final rule. However, because of significant simplifications in the national level analysis, this finding should be recognized as potentially having substantial error and should therefore be interpreted with caution. In particular, the national-level analysis: (1) Is based only on limited information on MP&M facilities at the national level; (2) accounts in only a very limited way for the presence and effect of joint discharges on the same reach; (3) omits data on non-MP&M discharges in the baseline and post compliance; and (4) omits consideration of the downstream effects of pollutant discharges.

In contrast to the national-level analysis, and as discussed in section IX.A. of today's final rule and Chapter 21 of the EEBA report, the methods and data used for the Ohio case study address a number of these analytic weaknesses. This more site-specific and detailed analysis finds that the final regulation would achieve $0.5 million (2001$) in health-related benefits in the State of Ohio alone. EPA estimates that this analysis provides a more accurate, albeit lower-bound, estimate of health-related benefits than indicated by the simpler national-level analysis. Moreover, given (1) that Ohio represents only about 6 percent of the total MP&M facility population and (2) that a substantial share of the total MP&M facility population is located in other States with similar water body and population characteristics (*e.g.,* the States of Illinois, Indiana, Michigan, Pennsylvania), it is reasonable to expect that additional human health benefits would be estimated for the remainder of the country if EPA were able to apply this more rigorous approach at the national level. Accordingly, EPA judges that the final rule's human health benefits are higher than its social costs.

1. Benefits From Reduced Incidence of Cancer

EPA assessed changes in the incidence of cancer cases from consumption of MP&M pollutants in fish tissue and drinking water. The Agency valued changes in incidence of cancer cases using a willingness-to-pay (WTP) of $6.5 million (2001$) for avoiding premature mortality. This estimate of the value of a statistical life saved is recommended in EPA's Guidelines for Preparing Economic Analysis. This estimate does not include

estimates of WTP to avoid morbidity prior to death.

EPA estimated aggregate cancer risk from contaminated drinking water for populations served by drinking water intakes on water bodies to which MP&M facilities discharge. EPA based this analysis on six carcinogenic pollutants for which drinking water criteria have not been published. This analysis excludes seven carcinogens for which drinking water criteria have been published. EPA assumed that public drinking water treatment systems will remove these seven pollutants from the public water supply. To the extent that treatment for these seven pollutants may cause incidental removals of the six pollutants without criteria, the analysis may overstate cancer-related benefits.

Calculated in-stream concentrations serve as a basis for estimating changes in cancer risk for populations served by affected drinking water intakes. EPA estimates that baseline MP&M discharges from in-scope facilities are associated with virtually zero annual cancer cases. The national-level analysis finds that the final regulation would lead to a marginal reduction in these cancer cases resulting from consumption of contaminated drinking water; correspondingly, monetary benefits estimated from reduced consumption of contaminated drinking water are essentially zero.

EPA also estimated cancer risk from the consumption of contaminated fish for recreational and subsistence anglers and their families. EPA based this analysis on thirteen carcinogenic pollutants found in MP&M effluent discharges. Estimated contaminant concentrations in fish tissue are a function of predicted in-stream pollutant concentrations and pollutant bioconcentration factors. EPA used data on numbers of licensed fishermen by state and county, presence of fish consumption advisories, number of fishing trips per person per year, and average household size to estimate the affected population of recreational and subsistence anglers and their families. The analysis uses different fish consumption rates for recreational and subsistence anglers to estimate the change in cancer risk among these populations.

EPA estimated that baseline MP&M discharges from in-scope facilities are associated with 0.03 annual cancer cases. The national-level analysis shows that final option would lead to a marginal reduction in cancer cases among recreational and subsistence angler populations. The monetary benefits estimated from consumption of less contaminated fish by these populations are essentially negligible.

The previous findings from the national analysis of changes in cancer risk associated with the final rule differ from the Ohio case study results. Based on the Ohio case study, the final option is expected to eliminate less than 0.01 cancer cases annually in the State of Ohio (*see* section IX.H of today's final rule for a detail). This reduction translates into approximately $14,500 (2001$) in annual benefits due to reduced cancer risk from consumption of contaminated fish tissue and drinking water. The difference in the findings of the national- and Ohio analyses results primarily from more comprehensive information on MP&M and non-MP&M facility discharges used in the Ohio case study analysis (*see* section IX.A. of today's final rule for additional details). The national-level analysis accounts only for the pollutant exposures from MP&M sample facilities. In contrast, the Ohio case study approach accounts for a broader baseline of pollutant exposure, including more thorough and detailed coverage of discharges from MP&M facilities and also estimated exposures from non-MP&M sources. As a result, this analysis more accurately reflects baseline health risk conditions.

2. Reductions in Non-Cancer Adverse Human Health Effects Other Than Those Related to Lead Exposure

The final rule can potentially generate non-cancer human health benefits (*e.g.,* reduction in systemic effects, reproductive toxicity, and developmental toxicity) from reduced contamination of fish tissue and drinking water sources. The common approach for assessing the risk of non-cancer health effects from the ingestion of a pollutant is to calculate a hazard quotient by dividing an individual's oral exposure to the pollutant, expressed as a pollutant dose in milligrams per kilogram body weight per day (mg/kg-day), by the pollutant's oral reference dose (RfD). An RfD is defined as an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure that likely would not result in the occurrence of adverse health effects in humans, including sensitive individuals, during a lifetime. Toxicologists typically establish an RfD by applying uncertainty factors to the lowest-or no-observed-adverse-effect level for the critical toxic effect of a pollutant.[1] A hazard quotient less than one means that the pollutant dose to which an individual is exposed is less than the RfD, and, therefore, presumed to be without appreciable risk of adverse human health effects. A hazard quotient greater than one means that the pollutant dose is greater than the RfD. Further, EPA guidance for assessing exposures to mixtures of pollutants recommends calculating a hazard index (HI) by summing the individual hazard quotients for those pollutants in the mixture that affect the same target organ or system (*e.g.,* the kidneys, the respiratory system).[2] HI values are interpreted similarly to hazard quotients; values below one are generally considered to suggest that exposures are not likely to result in appreciable risk of adverse health effects during a lifetime, and values above one are generally cause for concern, although an HI greater than one does not necessarily suggest a likelihood of adverse effects.

To evaluate the potential benefits of reducing the in-stream concentrations of 76 pollutants that cause non-cancer health effects, EPA estimated target organ-specific HIs for drinking water and fish ingestion exposures in both the baseline and post-compliance scenarios. Specifically, EPA calculated target-organ specific HIs for pollutants predicted in each MP&M discharge reach, such that one HI was calculated for each target organ/exposure pathway (fish consumption and drinking water)/reach combination. EPA then combined estimates of the numbers of individuals in the exposed populations with the HIs for the populations to determine how many individuals might be expected to realize reduced risk of non-cancer health effects in the post-compliance scenario. This analysis was limited in two primary ways. First, hazard indices estimated in this analysis may understate the actual potential for adverse health effects because possible additional sources of pollutants, such as background pollutants and MP&M pollutants from upstream dischargers, were not considered in the analysis. Second, EPA used mean individual exposure parameters and not the distribution of exposure parameters to estimate hazard indices for the populations affected by MP&M discharges.

The results of EPA's analysis suggest that hazard indices for individuals in the exposed populations may decrease

[1] U.S. EPA, 1993, ''Reference Dose (RfD): Description and Use in Health Risk Assessments, Background Document 1A,'' *http://www/epa.gov/iris/rfd.htm.*

[2] ''Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures. Risk Assessment Forum Technical Panel,'' EPA/630/R–00/002. U.S. EPA, August 2000. *http://www.epa.gov/nceawww1/pdfs/chem mix/chem mix 08 2001.pdf.*

after facilities comply with today's rule. Increases in the percentage of exposed populations that would be exposed to no risk of non-cancer adverse human health effects due to the MP&M discharges occur in both the fish and drinking water analyses. The shift to lower hazard indices should be considered in conjunction with the finding that the hazard indices for incremental exposures to pollutants discharged by MP&M facilities (for which reference doses are available) are less than one in the baseline analysis for the entire population associated with sample facilities. Whether the incremental shifts in hazard indices are significant in reducing absolute risks of non-cancer adverse human health effects is uncertain and will depend on the magnitude of contaminant exposures for a given population from risk sources not accounted for in this analysis.

3. Benefits From Reduced Exposure to Lead

EPA performed a separate analysis of benefits from reduced exposure to lead. This analysis differs from the analysis of non-cancer adverse human health effects from exposure to other MP&M pollutants because it is based on dose-response functions tied to specific health endpoints to which monetary values can be applied.

Many lead-related adverse health effects are relatively common and are chronic in nature. These effects include, but are not limited to, hypertension, coronary heart disease, and impaired cognitive function. Lead is harmful to individuals of all ages, but the effects of lead on children are of particular concern. Children's rapid rate of development makes them more susceptible to neurobehavioral effects from lead exposure. The neurobehavioral effects on children from lead exposure include hyperactivity, behavioral and attention difficulties, delayed mental development, and motor and perceptual skill deficits.

This analysis assessed benefits of reduced lead exposure from consumption of contaminated fish tissue to three sensitive populations: (1) Preschool age children; (2) pregnant women; and (3) adult men and women. This analysis uses blood-lead levels as a biomarker of lead exposure. EPA estimated baseline and post-compliance blood lead levels in the exposed populations and then used changes in these levels to estimate benefits in the form of avoided health damages.

EPA assessed neurobehavioral effects on children based on a dose response relationship for IQ decrements. Avoided neurological and cognitive damages are expressed as changes in overall IQ levels, including reduced incidence of extremely low IQ scores (<70, or two standard deviations below the mean) and reduced incidence of blood-lead levels above 20 µg/dL. The analysis uses the value of compensatory education that an individual would otherwise need and the impact of an additional IQ point on individuals' future earnings to value the avoided neurological and cognitive damages. The national-level analyses shows that implementation of the final option would not result in any changes in IQ loss across all exposed children. The final option does not reduce occurrences of extremely low IQ scores (<70) or incidences of blood-lead levels above 20 µg/dL.

Prenatal exposure to lead is an important route of exposure. Fetal exposure to lead in utero due to maternal blood-lead levels may result in several adverse health effects, including decreased gestational age, reduced birth weight, late fetal death, neurobehavioral deficits in infants, and increased infant mortality. To assess benefits to pregnant women, EPA estimated changes in the risk of infant mortality due to changes in maternal blood-lead levels during pregnancy. The national-level analysis shows that the final option does not result in changes in maternal blood lead levels during pregnancy and as a result does not reduce neonatal mortality.

The national-level analysis finds no benefits to children from reduced exposure to lead. However, as for the cancer risk analysis previously discussed, these findings differ from the more comprehensive analysis used in the Ohio case study. Using the case study approach, EPA estimates that the final regulation will yield annual lead-related benefits for children in Ohio of $422,113 (2001$). This benefit value includes three components. First, reduced lead exposure is estimated to reduce neonatal mortality by 0.024 cases annually with an annual value of $162,094 (2001$). Second, reduced lead exposure will avoid the loss of an estimated 26.96 IQ points among preschool children in Ohio, which translates into $253,934 (2001$) per year in benefits. Third, the annually avoided costs of compensatory education from incidence of IQ below 70 and blood-lead levels above 20 µg/dL among children amounts to approximately $5,345 (2001$).

Lead exposure has been shown to have adverse effects on the health of adults as well as children. The health effects in adults that EPA quantified all derive from lead's effects on blood pressure. Quantified health effects include increased incidence of hypertension (estimated for males only), initial coronary heart disease (CHD), strokes (initial cerebrovascular accidents and atherothrombotic brain infarctions), and premature mortality. This analysis does not include other health effects associated with elevated blood pressure and other adult health effects of lead, including nervous system disorders in adults, anemia, and possible cancer effects. EPA used cost of illness estimates (*i.e.,* medical costs and lost work time) to estimate monetary value of reduced incidence of hypertension, initial CHD, and strokes. EPA then used the value of a statistical life saved to value changes in risk of premature mortality. The national level analysis finds that the final rule will achieve no lead-related health benefits among adults.

Again, the national analysis results differ from the Ohio case study results. Using the case study approach, EPA estimates that the final regulation will achieve total lead-related benefits among Ohio adults of $117,393 (2001$). This value includes benefits from reduced hypertension among adult males: a reduction of an estimated 9.4 cases annually, with benefits of approximately $10,670 (2001$). In addition, reducing the incidence of initial CHD, strokes, and premature mortality among adult males and females in Ohio would result in estimated benefits of $963, $2,115, and $103,645, respectively.

Based on the national-level benefits analysis, EPA found that total benefits from reduced exposure to lead, for both children and adults, are negligible under the final rule. However, based on the Ohio case study findings, benefits for children and adults from reduced lead-related health effects to the final rule are estimated to total approximately $0.5 million (2001$) annually in the State of Ohio alone (*see* section H of today's final rule for detail). As in the cancer risk analysis, the difference in the national and Ohio-based results is primarily due to more comprehensive information on MP&M and non-MP&M facility discharges used in Ohio.

4. Reduced Exceedances of Health-Based AWQC

EPA also estimated the effect of MP&M facility discharges on the occurrence of pollutant concentrations in affected waterways that exceed human health-based AWQCs. In a conceptual sense, this analysis and its findings are not additive to the preceding analyses of change in cancer or lead-related health risks but are

another way of quantitatively characterizing the same possible benefit categories. This analysis compares the estimated baseline and post compliance in-stream pollutant concentrations in affected waterways to ambient water criteria for protection of human health. The comparison included AWQC for protection of human health through consumption of organisms and for consumption of organisms and water. Pollutant concentrations in excess of these values indicate potential risks to human health. Table IX–2 presents results of this analysis.

TABLE IX–2.—ESTIMATED MP&M DISCHARGE REACHES WITH MP&M POLLUTANT CONCENTRATIONS IN EXCESS OF AWQC LIMITS FOR PROTECTION OF HUMAN HEALTH

Regulatory status	Number of reaches with MP&M pollutant concentrations exceeding human health-based AWQC limits		Number of benefitting reaches			
			All AWQC exceedances eliminated		Number of AWQC exceedances reduced	
	For consumption of water and organisms	For consumption of organisms only	For consumption of water and organisms	For consumption of organisms only	For consumption of water and organisms	For consumption of organisms only
Selected Option: Traditional Extrapolation						
Baseline	78	21	N/A	N/A	N/A	N/A
Post-Compliance	78	21	0	0	0	0
Selected Option: Post-Stratification Extrapolation						
Baseline	112	21	N/A	N/A	N/A	N/A
Post-Compliance	112	21	0	0	0	0

Source: U.S. Environmental Protection Agency.

EPA estimates that in-stream concentrations of 4 pollutants (*i.e.,* arsenic, iron, manganese, and n-nitrosodimethylamine) will exceed human health criteria for consumption of water and organisms in 78 receiving reaches nationwide as the result of baseline MP&M pollutant discharges. EPA estimates that there are human health AWQC exceedances caused by n-nitrosodimethylamine (NDMA). However EPA did not consider NDMA pollutant reductions in its national benefits analyses because of the low number of detected values for that pollutant (*See* Chapter 7 of the TDD). EPA estimates that the final rule will not eliminate the occurrence of pollutant concentrations in excess of human health criteria for consumption of water and organisms and for consumption of organisms on any of the reaches on which baseline discharges are estimated to cause pollutant concentrations in excess of AWQC values.

5. Uncertainties and Assumptions of the Human Health Benefits Analysis

Because of the uncertainties and assumptions of EPA's analysis, the estimates of benefits presented in this section may either overstate or understate the benefits to recreational fishers, subsistence fishers, and members of the general population who consume drinking water obtained from intakes located downstream of MP&M discharges. Some of the major uncertainties and assumptions of EPA's analysis include the following:

- In estimating cancer risks and evaluating the risk of non-cancer health effects other than those related to lead exposure, EPA did not consider the potential for interactions between pollutants. EPA estimated cancer risk or non-cancer hazard attributable to each pollutant and summed the pollutant-specific estimates as appropriate (that is, EPA summed all pollutant-specific cancer risk estimates for each pathway of exposure, and summed pollutant-specific hazard quotients across target organs for each pathway of exposure). This approach does not account for the possibility that pollutants may interact synergistically or antagonistically such that the cancer potency or non-cancer hazard of the mixture of the pollutants is more or less than that calculated from the cancer potencies or RfDs of the individual pollutants.
- Population risk for cancer is based on mean exposure. Using mean exposure parameters for non-cancer could either over- or under-estimate HI exceedences.
- EPA's estimates of cancer cases were calculated using cancer potency factors that are upper bound estimates of cancer potency, potentially leading to overestimation of cancer risk.
- The analysis benefits from reduced incidence of cancer did not account for a cessation-lag, the time between when exposures are reduced and when reduction in risk occurs. Ignoring a cessation lag may lead to overestimation of cancer-related benefits.
- EPA assumed that the number of subsistence fishers would be an additional 5% of the licensed fishing population. This could be either an overestimate or underestimate of the actual number of subsistence fishers.
- Hazard indices estimated in this analysis may understate actual health risk because possible additional sources of pollutants, such as background pollutants and MP&M pollutants from upstream dischargers, were not considered in the analysis.

Additional details on methodology and the uncertainties and limitations of EPA's analysis of human health risk from the final effluent guidelines, particularly assumptions related to exposure parameters, are presented in Chapter 13 and Chapter 14 of the EEBA report.

C. Improved Ecological Conditions and Recreational Uses

EPA expects the final regulation to provide ecological benefits by improving the habitats or ecosystems (aquatic and terrestrial) affected by the MP&M industry's effluent discharges. Benefits associated with changes in aquatic life may include restoration of sensitive species, recovery of diseased species, changes in taste- and odor-producing algae, changes in dissolved oxygen (DO), increased assimilative capacity of affected waterways, and improved related recreational activities. These activities include swimming,

fishing, boating and wildlife observation that may be enhanced when risks to aquatic life are reduced and where perceivable water quality efforts associated with MP&M pollutants, such as turbidity, are reduced. Among these ecological benefits, EPA was able to estimate dollar values for improved recreational opportunities and for non-user benefits.

EPA expects the MP&M rule to improve aquatic species habitats by reducing concentrations of toxic contaminants such as aluminum, cadmium, copper, lead, mercury, silver, and zinc in water. These improvements may enhance the quality and value of water-based recreation, such as fishing, swimming, wildlife viewing, camping, waterfowl hunting, and boating. The benefits from improved water-based recreation would be seen as increases in the increased value participants derive from a day of recreation and the increased number of days that consumers of water-based recreation choose to visit the cleaner waterways. This analysis measures the economic benefit to society from water quality improvements based on the increased monetary value of recreational opportunities resulting from those improvements.

EPA assessed recreational benefits of reduced occurrence of pollutant concentrations exceeding aquatic life and human health AWQC values. EPA estimates that baseline in-stream concentrations of 9 pollutants (*i.e.,* aluminum, cadmium, copper, lead, manganese, mercury, nickel, silver, and zinc) will exceed the acute and chronic criterion for aquatic life in 353 reaches nationwide. The final rule eliminates concentrations in excess of aquatic life-based AWQCs on nine of these reaches. Section IX.4 of this preamble presents EPA's analysis of the effect of MP&M discharges on occurrence of pollutant concentrations in affected waterways in excess of human health-based AWQCs.

The analysis of recreational benefits combined the findings from the aquatic life benefits analysis and the human health AWQC exceedance analysis described previously. These analyses found that 394 stream reaches exceed chronic or acute aquatic life AWQC and/or human health AWQC values at the baseline discharge levels (*see* Table IX–3). EPA expects the final rule will eliminate exceedances on nine of these discharge reaches.

TABLE IX–3.—ESTIMATED MP&M DISCHARGE REACHES WITH MP&M POLLUTANT CONCENTRATIONS IN EXCESS OF AWQC LIMITS FOR PROTECTION OF HUMAN HEALTH OR AQUATIC SPECIES

Regulatory status	Number of reaches with MP&M pollutant concentrations exceeding AWQC limits					Number of benefitting reaches	
	Aquatic life		Human health		Total	All AWQC exceedances eliminated	AWQC exceedances reduced
	Chronic	Acute	H_2O and organisms	Organisms only			
Selected Option: Traditional Extrapolation							
Baseline	353	18	78	21	394	N/A	N/A
Post-Compliance	344	9	78	21	386	9	0
Selected Option: Post-Stratification Extrapolation							
Baseline	350	15	112	21	426	N/A	N/A
Post-Compliance	344	9	112	21	420	6	0

Removing water quality impairments would increase services provided by water resources to recreational users. EPA expects potential recreational users to benefit from improved recreational opportunities, including an increased number of available choices of recreational sites. For example, some of the streams that were not usable for recreation under the baseline discharge conditions may be newly included in the site choice set for recreational users from nearby counties. Streams that have been used for recreation under the baseline conditions can become more attractive for users making recreational trips more enjoyable. Individuals may also take trips more frequently if they enjoy their recreational activities more.

EPA attached a monetary value to these reduced exceedances based on increased values for three water-based recreation activities—fishing, boating, and wildlife viewing—and for non-user values. Because most benefitting reaches are close to densely populated areas, potential recreational users may also benefit from lower travel costs to the recreational sites in the vicinity of their home towns that were not previously suitable to water-based recreation. EPA applied a benefits transfer approach to estimate the total WTP, including both use and non-use values, for improvements in surface water quality. This approach builds upon a review and analysis of the surface water valuation literature.

EPA first estimated the baseline value of each recreational activity (*i.e.*, fishing, boating, and wildlife viewing) corresponding to the benefitting reach by multiplying the estimated annual person-days per reach by the estimated per-day values of water-based recreation. The baseline per-day values of water-based recreation are based on studies by Walsh *et. al* (1992) and Bergstrom and Cordell (1991) (*see* DCN 20444 and DCN 20427, section 8.5.2.4). The studies provide values per recreation day for a wide range of water-based activities, including fishing, boating, wildlife viewing, waterfowl hunting, camping, and picnicking. The mean values per recreational fishing, boating, and wildlife viewing day used in this analysis are $42.12, $48.30 and $26.28 (2001$) respectively. Applying facility weights and assuming over all benefitting reaches provides a total baseline value for a given recreational activity for MP&M reaches expected to benefit from the elimination of pollutant concentrations in excess of AWQC limits.

EPA then applied the percentage change in the recreational value of water resources implied by surface water valuation studies to estimate changes in values for all MP&M reaches in which the regulation eliminates AWQC exceedances by one or more MP&M pollutants. The Agency selected eight of the most comparable studies and calculated the changes in recreation values from water quality improvements (as percentage of the baseline) implied

by those studies. Sources of estimates included Lyke (1993), Jakus *et al.* (1997), Montgomery and Needleman (1997), Paneuf *et al.* (1998), Desvousges *et al.* (1987), Lant and Roberts (1990), Farber and Griner (2000), and Tudor *et al.* (2000) (*see* section 8.5.2.4 of the rulemaking record). EPA's reasoning for selecting each study is discussed in detail in Chapter 15 of the EEBA report. EPA took a simple mean of point estimates from all applicable studies to derive a central tendency value for percentage change in the water resource values due to water quality improvements. These studies yielded estimates of increased recreational value from water quality improvements expected from reduced MP&M discharges of 12, 9, and 18 percent for fishing, boating, and wildlife-viewing respectively. Using all possible applicable valuation studies in developing a benefit transfer approach to valuing changes in the recreational value of water resources from reduced MP&M discharges, makes unit values more likely to be nationally representative, and avoids the potential bias inherent in using a single study to make estimates at the national level.

Table IX–4 presents the estimated national recreational benefits of the final rule (2001$). *See* EEBA Chapter 15 for estimated recreational benefits for alternative regulatory options. The estimated increased value of recreational activities to users of water-based recreation is $537,197, $202,691, and $259,949 annually for fishing, boating, and wildlife viewing respectively. The recreational activities considered in this analysis are stochastically independent; EPA calculated the total user value of enhanced water-based recreation opportunities by summing over the three recreation categories. The estimated increase in the total user value is $999,838 annually.

EPA also estimated non-market non-user benefits. These non-market non-user benefits are not associated with current use of the affected ecosystem or habitat; instead, they arise from the value society places on improved water quality independent of planned uses or based on expected future use. Past studies have shown that non-user values are a sizable component of the total economic value of water resources. EPA estimated average changes in non-user value to equal one-half of the recreational use benefits (*see* Fisher, A. and R. Raucher, 1984; DCN 20431, section 8.5.2.4). The estimated increase in non-use value is $499,919 (2001$).

A recent literature review finds that non-use benefits are, on average, 1.9 to 2.5 times *all* use values, rather than 0.5 times *recreational benefits alone* as EPA has traditionally assumed for its non-use benefit estimates (*see* T. Brown, 1993; DCN 20426, section 8.5.2.4). EPA's method for estimating non-use benefits from water quality improvements resulting from reduced MP&M dischargers is therefore likely to understate the true value of non-use benefits.

TABLE IX–4.—ESTIMATED RECREATIONAL AND NON-USE BENEFITS FROM REDUCED MP&M DISCHARGES

[Thousands of 2001$]

Benefit type	Traditional extrapolation	Post-stratification extrapolation
Recreational Fishing	$537.20	$349.98
Recreational Boating	$202.69	$132.05
Recreational Wildlife Viewing	$259.95	$169.36
Non-Use Benefits (½ Recreational Benefits)	$499.92	$325.70
Total Recreational Benefits	$1,499.76	$977.09

Note: Categories may not sum to totals due to rounding of individual estimates for presentation purposes.

EPA calculated the total value of enhanced water-based recreation opportunities by summing over the three recreation categories and non-user value. The resulting increase in value of water resources to consumers of water-based recreation and non-users is $1,449,756 (2001$) annually.

Findings from the Ohio-case study analysis suggest that the benefits to consumers of water-based recreation may be substantially underestimated at the national level. EPA estimates recreational and non-use benefits to Ohio residents alone are $376,400 (2001$) annually. See section IX.H of today's final rule and Chapter 21 of the EEBA for a detailed discussion of the case study of recreational benefits in Ohio. Given that the in-scope MP&M facilities located in the State of Ohio account only for six percent of the total number of in-scope facilities, it is reasonable to expect that the benefits to Ohio residents do not account for such a large proportion of recreational benefits from the final rule nationwide. In addition to more accurately account for the presence and effect of MP&M and non-MP&M dischargers in Ohio, the following factors are likely to result in more comprehensive estimates of recreational benefits under the case study approach: (1) Use of an original travel cost study to value four recreational activities affected by the regulation: fishing, swimming, boating, and wild life viewing; (2) use of a first-order decay model to estimate in-stream concentrations in downstream water bodies; (3) ability to estimate welfare gain to recreational users from reduced discharges of nutrients such as Total Kjeldahl Nitrogen (TKN).

D. Effect on POTW Operations

The final rule only regulates direct dischargers. Therefore, the selected option does not affect POTW operation. For the alternative policy options that consider both direct and indirect dischargers, EPA evaluated two productivity measures associated with MP&M pollutants. The first measure is the reduction in pollutant interference at publicly-owned treatment works (POTWs). The second measure is pass-through of pollutants into the sludge, which limits options for POTW disposal of sewage sludge. These analyses are presented in EEBA Chapter 16.

E. Summary of Benefits

Using the national-level analysis approach, EPA estimates total benefits for the five monetized categories of approximately $1,500,000 (2001$) annually (*see* Table IX–5). EPA's complete benefit assessment can be found in EEBA for the final rule. The monetized benefits of the rule likely underestimates the total benefits of the rule because they omit various sources of benefits to society from reduced MP&M effluent discharges. Examples of benefit categories not reflected in these estimates include non-cancer health benefits other than benefits from reduced exposure to lead; other water-dependent recreational benefits, such as swimming and waterskiing benefits to recreational users from reduced concentration of conventional pollutants and nonconventional pollutants such as TKN; and reduced cost of drinking water treatment for the pollutants with drinking water criteria. In addition, as noted in the prior discussion, although the national-level benefits analysis finds negligible benefits from reduced health risk, the more rigorous analytic approach used for the Ohio case study found more benefits—approximately $0.5 million.

TABLE IX–5.—ESTIMATED BENEFITS FROM REDUCED MP&M DISCHARGES

[Annual Benefits—Thousands of 2001$]

Benefit category	Traditional extrapolation	Post-stratification extrapolation
1. Reduced Cancer Risk:		
Fish Consumption	$0.09	$0.13
Water Consumption	$0	$0
2. Reduced Risk from Exposure to Lead:		
Children	$0	$0
Adults	$0	$0
3. Avoided Sewage Sludge Disposal Costs [a]	N/A	N/A
4. Enhanced Fishing	$537.20	$349.98
5. Enhanced Boating	$202.69	$132.05
6. Enhanced Wildlife Viewing	$259.95	$169.36
7. Non-Use benefits (½ of Recreational Use Benefits)	$499.92	$325.70
Total monetized benefits	$1,499.85	$977.22

[a] Not applicable to the final rule.

F. National Cost-Benefit Comparison

The comparison of costs and benefits for the final rule is inevitably incomplete because EPA cannot value all of the benefits resulting from the final rule in dollar terms. A comparison of costs and benefits is thus limited by the lack of a comprehensive benefits valuation and also by uncertainties in the estimates. Bearing these limitations in mind, EPA presents a summary comparison of costs and benefits for the final rule in Table IX–6. The estimated social cost of the final rule is $13.8 million annually (2001$). The total benefits that can be valued in dollar terms in the categories traditionally analyzed for effluent guidelines range from around $977,000 to $1,500,000 annually (2001$), based on the alternative extrapolation methods.

As previously noted, EPA used more detailed information and a more comprehensive analytic method to estimate expected benefits of the final rule for the State of Ohio. This more rigorous analysis was undertaken to address certain issues in the national-level analysis and to supplement the national-level analysis performed for the final rule. The following section presents this analysis. The Ohio case study showed that the more rigorous analytic approach leads to a different conclusion from that found in the simpler, national-level analysis approach—in particular, that the estimated State-level benefits exceed the estimated State-level cost. As previously discussed, given (1) that Ohio accounts for only about 6 percent of total MP&M facilities, and (2) that other States with substantial numbers of MP&M facilities have similar population and water body characteristics to Ohio, EPA believes that use of the more rigorous approach nationally would yield a higher estimate of national benefits. On this basis, the Agency estimates that national benefits from the final rule may be comparable to its social costs.

TABLE IX–6.—COST-BENEFIT COMPARISON [THOUSANDS OF 2001$]

Category	Traditional extrapolation	Post-stratification extrapolation*
Social Cost of Regulation	$13,824.56	$13,824.56
Monetized Benefits	$1,499.85	$977.22
Net Benefits	(−$12,324.72)	(−$12,847.34)

*Post-Stratification extrapolation is applied to benefits estimates only.

G. Ohio Case Study

1. Overview

The Ohio Case Study Report presents a detailed case study of the expected State-level costs and benefits of the MP&M rule in Ohio. The case study assesses the costs and benefits of the final rule for facilities and water bodies located in Ohio. Ohio is among the ten States with the largest numbers of MP&M facilities. The State has a diverse water resource base and a more extensive water quality ecological database than many other States. EPA gathered data on MP&M facilities and on Ohio's baseline water quality conditions and water-based recreation activities to support the case study analysis. These data characterize current water quality conditions, water quality changes expected from the regulation, and the expected welfare changes from water quality improvements at water bodies affected by MP&M discharges. The case study also estimates the social costs of the final rule for facilities in Ohio and compares estimated social costs and benefits for the State.

The case study analysis supplements the national level analysis performed for the final MP&M regulation in two important ways. First, the analysis used improved data and methods to determine MP&M pollutant discharges from both MP&M facilities and other sources. In particular, EPA administered 1,600 screener questionnaires to augment information on the Ohio's MP&M facilities. The Agency also used information from the sampled MP&M facilities to estimate discharge characteristics of non-sampled MP&M facilities, as described in Appendix H of the EEBA report. The Agency assigned discharge characteristics to all non-MP&M industrial direct discharges based on the information provided in PCS. Second, the analysis used an original travel cost study to value four recreational uses of water resources affected by the regulation: swimming, fishing, boating, and near-water activities. The added detail provides a more complete and reliable analysis of water quality changes from reduced MP&M discharges. The study provides more complete estimates of changes in human welfare resulting from reduced health risk, enhanced recreational opportunities, and improved economic productivity.

EPA estimated human health benefits from reduced MP&M dischargers in Ohio using similar methodologies to those used for the national-level analysis. Section IX.B of this preamble summarizes these methodologies. Uncertainties and assumptions of EPA's

analysis of human health benefits are presented in section IX.B.5. Additional details on methodology and the uncertainties and limitations of EPA's analysis of reduced human health risk from the final effluent guidelines are presented in Chapter 13 and 14 of the EEBA report.

The case study analysis of recreational benefits combines water quality modeling with a random utility model (RUM) to assess how changes in water quality from the regulation will affect consumers' valuation of water resources. The RUM analysis addresses a wide range of pollutant types and effects, including water quality measures not often addressed in past recreational benefits studies. In particular, the model supports a more complete analysis of recreational benefits from reductions in nutrients and toxic pollutants (*i.e.*, priority pollutants and nonconventional pollutants with toxic effects).

EPA subjected this study to a formal peer review by experts in the natural resource valuation field. The peer review concluded that EPA had done a competent job, especially given the available data. As requested by the Agency, peer reviewers provided suggestions for further improvements in the analysis. Since the proposed rule analysis, the Agency made changes to the Ohio model and conducted additional sensitivity analyses suggested by the reviewers. The peer review report and EPA's response to peer reviewers' comments, along with the revised model, are in the docket for the rule.

2. Benefits for Ohio Case Study

The use of an original RUM in this case study allows the Agency to address limitations inherent in benefits transfer used in the analysis of recreational benefits at the national level. The use of benefits transfer often requires additional assumptions because water quality changes evaluated in the available recreation demand studies are only roughly comparable with the water quality measures evaluated for a particular rule. The RUM model estimates the effects of the specific water quality characteristics analyzed for the final MP&M regulation, such as presence of AWQC exceedances and concentrations of the nonconventional pollutant Total Kjeldahl Nitrogen (TKN). EPA estimates that this direct link between the water quality characteristics analyzed for the rule and the characteristics valued in the RUM analysis reduces uncertainty in benefit estimates and makes the analysis of recreational benefits more robust.

The final MP&M regulation affects a broad range of pollutants, some of which are toxic to human and aquatic life but are not directly observable (*i.e.*, priority and non-conventional pollutants). These unobservable toxic pollutants may degrade aquatic habitats, decrease the size and abundance of fish and other aquatic species, increase fish deformities, and change watershed species composition. Changes in toxic pollutant concentrations may therefore affect recreationists' valuation of water resources, even if consumers are unaware of changes in ambient pollutant concentrations.

The study used data from the National Demand Survey for Water-Based Recreation (NDS), conducted by U.S. EPA and the National Forest Service, to examine the effects of in-stream pollutant concentrations on consumers' decisions to visit a particular water body. The analysis estimated baseline and post-compliance water quality at recreation sites actually visited by the surveyed consumers and at all other sites within the consumers' choice set, visited or not. The RUM analysis of consumer behavior then estimated the effect of ambient water quality and other site characteristics on the total number of trips taken for different water-based recreation activities and the allocation of these trips among particular recreational sites. The RUM analysis is a travel cost model, in which the cost to travel to a particular recreational site represents the ''price'' of a visit.

EPA modeled two consumer decisions: (1) How many water-based recreational trips to take during the recreational season (the trip participation model); and (2) which recreation site to choose (the site choice model). Combining the trip frequency model's prediction of trips under the baseline and post-compliance scenarios and the site choice model's per-trip welfare measure provides a measure of total welfare. EPA calculated each individual's seasonal welfare gain for each recreation activity from post-compliance water quality changes, and then used Census data to aggregate the estimated welfare change to the State level. The sum of estimated welfare changes over the four recreation activities yielded estimates of total welfare gain.

EPA estimated other components of benefits in Ohio using similar methodologies to those used for the national-level analysis. In addition to the RUM study of recreational benefits, other analytical improvements included the following: (1) Use of more detailed data on MP&M facilities, obtained from the 1,600 additional surveys; (2) use of data on non-MP&M discharges to estimate current baseline conditions in the State; and (3) use of a first-order decay model to estimate in-stream concentrations in the Ohio water bodies in the baseline and post-compliance.

Appendix H of the EEBA Report describes the water quality model used in this analysis and the approach and data sources used to estimate total pollutant loadings from all industrial and municipal sources to Ohio's water bodies. The Agency has concluded that the added level of detail results in more robust benefit estimates.

Summing the monetary values over all benefit categories yields total monetized benefits of $930,400 (2001$) annually for the final rule, as shown in Table IX–7. Although more comprehensive than the national benefits analysis, the case study benefit estimates still omit important mechanisms by which society is likely to benefit from the final rule. Examples of benefit categories not reflected in the monetized benefits include non-cancer health benefits (other than lead-related benefits) and reduced costs of drinking water treatment.

TABLE IX–7.—ESTIMATED BENEFITS FROM REDUCED MP&M DISCHARGES FROM OHIO FACILITIES

[Annual benefits—thousands of 2001$]

Benefit category	Selected option
1. Reduced Cancer Risk:	
Fish Consumption:	$14.5
Water Consumption:	$0.00
2. Reduced Risk from Exposure to Lead:	
Children:	$422.11
Adults:	$117.39
3. Avoided Sewage Sludge Disposal Costs	$0.00
4. Enhanced Fishing	$153.10
5. Enhanced Swimming	$9.78
6. Enhanced Boating	$0.00
7. Enhanced Wildlife Viewing	$88.05
8. Non-Use benefits (½ of Recreational Use Benefits)	$125.47
Total Monetized Benefits	$930.4

3. Social Costs for Ohio Case Study

EPA also estimated the social costs of the final rule for MP&M facilities in Ohio. EPA relied on the results of the national analysis to predict the number of Ohio facilities that would close in the baseline and due to the final rule.

The MP&M regulations will not affect facilities that are baseline closures. Predicting the number of regulatory closures is necessary to estimate the costs and impacts of the regulation on industry and water quality. The screener

data collected for Ohio facilities did not provide financial data to perform facility financial impact analyses, as was done in the national analysis. EPA therefore used data from the national analysis to estimate the percentage of facilities that would close in the baseline and post-compliance. EPA assumed the ratio of facilities that close in the national analysis with the same discharge status, subcategory, and flow category would be comparable to closures for facilities in Ohio. For example, two percent of direct Oily Waste facilities discharging less than one MGY close in the baseline in the national data set.

EPA developed engineering estimates of compliance costs for each Ohio facility and annualized costs using a seven percent discount rate over a 15-year period. As in the national social cost analysis, EPA included compliance costs for facilities that close due to the rule and costs for facilities that continue to operate subject to the final regulation. Including costs for regulatory closures in effect calculates the social costs of compliance that would be incurred if every facility continued to operate post-regulation. In fact, some facilities may find it more economical to close, and calculating costs as if all facilities continue operating provides an upper bound estimate of social costs.

EPA used the same methods as used in the national social cost analysis to estimate other components of social costs for the Ohio case study. Section VIII of this preamble and Chapter 11 of the EEBA describe the methods used to estimate government administrative costs and the social costs of unemployment.

Table IX–8 shows the total estimated social costs of the final rule for Ohio facilities.

TABLE IX–8.—ANNUAL SOCIAL COSTS FOR OHIO FACILITIES: PROPOSED OPTION

[Thousands 2001$, costs annualized at 7%]

Component of social costs	Selected option
Resource value of compliance costs	$62.23
Government administrative costs	$0.00
Social cost of unemployment	$0.00
Total social cost	$62.23

4. Comparison of Monetized Benefits and Costs for Ohio Case Study

The Ohio case study shows substantial net positive benefits associated with the MP&M regulation. EPA estimates the social cost in Ohio of the final regulation to be $62,232 annually (2001$). The sum total of benefits that can be valued in dollar terms is $930,408 annually (2001$). Comparing the midpoint estimate of social costs ($62,232) with the midpoint estimate of monetizable benefits ($930,408) results in a net social benefit of $868,178. This represents a partial cost-benefit comparison because not all of the benefits resulting from the regulation can be valued in dollar terms (*e.g.*, changes in systemic health risk).

For the reasons previously discussed, EPA judges that the analytic approach and detailed data used for the Ohio case study provide a more robust and accurate benefits estimate than the data and approach used for the national-level analysis.

X. Non-Water Quality Environmental Impacts

Sections 304(b) and 306 of the Act require EPA to consider non-water quality environmental impacts (including energy requirements) associated with effluent limitations guidelines and standards. In accordance with these requirements, EPA has considered the potential impact of today's final regulation on air emissions, solid waste generation, and energy consumption.

While it is difficult to balance environmental impacts across all media and energy use, the Agency has determined that the benefits associated with compliance with the limitations and standards justify the multi-media impacts identified in this section (*see* section IX for a discussion on the environmental benefits associated with this regulation). For additional information on non-water quality impacts associated with today's regulation, *see* section 13 of the TDD.

A. Air Pollution

MP&M facilities generate wastewater that contain organic compounds. These organic compounds may be volatile organic compounds (VOCs), which contribute to the formation of ambient ozone, or hazardous air pollutants (HAPs) listed in section 112(b) of the Clean Air Act (CAA). These wastewaters often pass through a series of collection and treatment units that are open to the atmosphere and allow wastewater containing organic compounds to contact ambient air. Atmospheric exposure of the organic-containing wastewaters may result in the release of VOCs or organic HAPs from the wastewater.

The use of halogenated hazardous air pollutant solvent (methylene chloride, perchloroethylene, trichloroethylene, 1,1,1 trichloroethane, carbon tetrachloride and chloroform) for cleaning in the MP&M industry can create hazardous air pollutant emissions. The Agency has concluded that this regulation will not affect the use of halogenated hazardous air pollutant solvent in the MP&M industry. This regulation neither requires nor discourages the use of aqueous cleaners in lieu of halogenated hazardous air pollutant solvent.

Because today's final rule would not allow any less stringent control of VOCs or organic HAPs than is currently in place at MP&M facilities, EPA does not predict any net increase in air emissions from volatilization of organic pollutants due to today's action. As such, EPA expects no adverse air impacts are expected to occur as a result of today's regulation.

The Agency notes that it is developing National Emission Standards for Hazardous Air Pollutants (NESHAPs) under section 112 of the CAA to address air emissions of HAPs. Current and upcoming NESHAPs that may potentially affect HAP emitting activities at MP&M facilities considered during the development of this rule include:

- Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- Halogenated Solvent Cleaning;
- Aerospace Manufacturing;
- Shipbuilding and Ship Repair (Surface Coating);
- Large Appliances (Surface Coating);
- Metal Furniture (Surface Coating);
- Automobile and Light-Duty Truck Manufacturing (Surface Coating); and
- Miscellaneous Metal Parts and Products (Surface Coating).

Finally, EPA notes that the energy requirements discussed in this section may result in increased emissions of combustion byproducts associated with energy production. Given the relatively small projected increases in energy use, EPA does not anticipate that this effect would be significant.

B. Solid Waste

As shown in Table X–1, EPA anticipates that waste oil generation will increase as a result of today's rule. The estimated increase of waste oil generation as a result of today's rule reflects better removal of oil and grease by the selected technology than is currently achieved.

TABLE X–1.—WASTE OIL GENERATION FOR OILY WASTES SUBCATEGORY

Option	Waste Oil Generated (million gallons/year)
Baseline (or current) Technology [1]	13.5
Option 6 Technology	15.9

Source: U.S. Environmental Protection Agency.

[1] EPA calculated the baseline sludge and waste oil generation using responses to the 1989 MP&M Phase I Questionnaire and the 1996 MP&M Phase II Detailed Questionnaires.

MP&M facilities usually either recycle waste oil on-site or off-site, or contract haul it for disposal as either a hazardous or nonhazardous waste. However, EPA notes that the inclusion of water conservation and pollution prevention in the technology basis for the Oily Wastes subcategory results in the generation of less waste oil than a technology basis that did not incorporate pollution prevention. EPA finds the overall increase in waste oil generation as acceptable.

C. Energy Requirements

EPA estimates that compliance with this regulation will result in a net increase in energy consumption at MP&M facilities. EPA presents the estimates of energy usage for the selected option in Table X–2.

TABLE X–2.—ENERGY REQUIREMENTS BY OPTION

Option	Energy required (kilowatt hrs/yr)
Baseline [1]	6,883,774
Selected Options	7,234,450

Source: U.S. Environmental Protection Agency.

[1] EPA calculated the baseline sludge and waste oil generation using responses to the 1989 MP&M Phase I Questionnaire and the 1996 MP&M Phase II Detailed Questionnaires. The final regulation does not include indirect discharging facilities.

By comparison, electric power generation facilities generated 3,123 billion kilowatt hours of electric power in the United States in 1997 (The Energy Information Administration, Electric Power Annual 1998 Volume 1, Table A1). Additional energy requirements for EPA's selected options are trivial (*i.e.*, significantly less than 0.01 percent of national requirements).

XI. Regulatory Implementation

The purpose of this section is to provide assistance and direction to permit writers and MP&M facilities to aid in their implementation of this regulation. This section also discusses the relationship of upset and bypass provisions, and variances and modification to the final limitations and standards. For additional implementation information, *see* section 15 of the TDD for today's final rule.

A. Implementation of the Limitations and Standards for Direct Dischargers

Effluent limitations and new source performance standards act as one of the primary mechanisms to control the discharges of pollutants to waters of the United States. Authorized States may also set permit limitations based on the capabilities of the treatment installed to ensure proper operation and maintenance of the treatment technology. These limitations and standards are applied to individual facilities through NPDES permits issued by the EPA or authorized States under section 402 of the Act.

In specific cases, the NPDES permitting authority may elect to establish permit limits for pollutants not covered by this regulation based on the capabilities of on-site treatment technologies. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits or standards on covered pollutants in order to achieve compliance), the permitting authority must apply those limitations or standards. *See* CWA section 301(b)(1)(C).

1. Compliance Dates for Existing and New Sources

New and reissued Federal and State NPDES permits to direct dischargers must include the effluent limitations promulgated today. The permits must require immediate compliance with such limitations. If the permitting authority wishes to provide a compliance schedule, it must do so through an enforcement mechanism.

New sources must comply with the new source standards (NSPS) of the MP&M rule at the time they commence discharging MP&M process wastewater. Because the final rule was not promulgated within 120 days of the proposed rule, the Agency considers a discharger a new source if its construction commences after June 12, 2003.

2. Applicability

In section V of this preamble and section 15 of the TDD, EPA provides details information on the applicability of this rule to various operations. Permit writers should closely examine all metal products and machinery operations and compare these operations against the applicability statement for today's rule (*see* 40 CFR 438.1) and section 1 of the TDD to determine if they are subject to the provisions of this rule.

3. Implementation for Facilities Subject to Multiple Effluent Limitations Guidelines

The regulations in today's final rule do not apply to wastewater discharges which are subject to the limitations and standards of other effluent limitations guidelines (*e.g.*, Metal Finishing (40 CFR part 433) or Iron and Steel Manufacturing (40 CFR part 420)).

4. Waiver for Pollutants Not Present

In May 2000, EPA promulgated a regulation to streamline the NPDES regulations (''Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two'' (*see* 65 FR 30886; May 15, 2000)) which includes a monitoring waiver for direct dischargers subject to effluent guidelines. Direct discharge facilities may forego sampling of a guideline-limited pollutant if that discharger ''has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger,'' (*see* 65 FR 30908; 40 CFR 122.44). EPA noted in the preamble to the final NPDES streamlining rule that it is providing a waiver from monitoring requirements, but not a waiver from the limit. In addition, the revision does not waive monitoring for any pollutants for which there are limits based on water quality standards. The waiver for direct dischargers lasts for the term of the NPDES permit and is not available during the term of the first permit issued to a discharger. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. Therefore, EPA is not including a monitoring waiver in today's final regulations for direct dischargers. When authorized by their permit writer, direct discharge facilities covered by any effluent guidelines (including today's rule) will be able to use the monitoring waiver contained in the NPDES streamlining final rule.

5. Compliance with the Limitations and Standards

The same basic procedures apply to the calculation of all limitations and standards for the OWS, regardless of whether the control level is BPT, BCT,

or NSPS. For simplicity, the following discussion refers only to effluent limitations guidelines; however, the discussion also applies to new source standards.

a. Definitions

The limitations for pollutants for the OWS, as presented in today's final rule, are provided as maximum daily discharge limitations. Definitions provided at 40 CFR 122.2 state that the ''maximum daily discharge limitation'' is the ''highest allowable 'daily discharge.' '' Daily discharge is defined as the '' 'discharge of a pollutant' measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.'' Section 10 of the TDD describes the data selection and calculations used to develop today's limitations.

b. Percentile Basis for Limits, Not Compliance

EPA promulgates limitations that facilities are capable of complying with at all times by properly operating and maintaining their processes and treatment technologies. EPA established these limitations on the basis of percentiles estimated using data from facilities with well-operated and controlled processes and treatment systems. However, because EPA uses a percentile basis, the issue of exceedances (*i.e.*, values that exceed the limitations) or excursions is often raised in public comments on limitations. For example, comments often suggest that EPA include a provision that allows a facility to be considered in compliance with permit limitations if its discharge exceeds the specified daily maximum limitations one day out of 100. As explained in section 10.4 of the TDD, these limitations were never intended to have the rigid probabilistic interpretation implied by such comments. The following discussion provides a brief overview of EPA's position on this issue.

EPA expects that all facilities subject to the limitations will design and operate their treatment systems to achieve the long-term average performance level on a consistent basis because facilities with well-designed and operated model technologies have demonstrated that this can be done. Facilities that are designed and operated to achieve the long-term average effluent levels used in developing the limitations should be capable of compliance with the limitations at all times, because the limitations incorporate an allowance for variability in effluent levels about the long-term average. The allowance for variability is based on control of treatment variability demonstrated in normal operations.

EPA recognizes that, as a result of today's rule, some dischargers may need to improve treatment systems, process controls, and/or treatment system operations in order to consistently meet limitations and standards in the final MP&M effluent guidelines. EPA finds that this consequence is consistent with the Clean Water Act statutory framework, which requires that discharge limitations reflect best practicable control technology currently available (BPT).

c. Limitations

EPA did not establish monthly average limitations for O&G (as HEM) and TSS because a monthly average limitation would be based on the assumption that a facility would be required to monitor more frequently than once a month. For the reasons set forth in section VI.F.1, EPA estimates that one monthly monitoring event is sufficient; however, if permitting authorities choose to require more frequent monitoring for O&G (as HEM) and TSS, they may set monthly average limitations and standards based on their BPJ (*see* 40 CFR 430.24(a)(1), footnote b).

d. Requirements of Laboratory Analysis

The permittee is responsible for communicating the requirements of the analysis to the laboratory, including the sensitivity required to meet the regulatory limits associated with each analyte of interest. In turn, the laboratory is responsible for employing the appropriate set of method options and a calibration range in which the concentration of the lowest non-zero standard represents a sample concentration lower than the regulatory limit for each analyte. It is the responsibility of the permittee to convey to the laboratory the required sensitivity to comply with the limitations (*see Sierra Club* v. *Union Oil,* 813 F.2d 1480, page 1492 (9th Cir. 1987)).

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of the streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets for direct dischargers are set forth at 40 CFR 122.41(m) and (n) and for indirect dischargers at 40 CFR 403.16 and 403.17.

C. Variances and Modifications

The CWA requires application of effluent limitations established pursuant to section 301 to all direct dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. Fundamentally Different Factors Variances

EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with respect to factors considered in establishing the limitation of standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation provided for the FDF modifications from the BPT effluent limitations, BAT limitations for toxic and nonconventional pollutants and BPT limitations for conventional pollutants for direct dischargers. For indirect dischargers, EPA provided for modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. (*Chemical Manufacturers Assn* v. *NRDC,* 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added a new section 301(n) explicitly authorizing modifications of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified at section 304 (other than costs) considered by EPA in establishing the effluent limitations or pretreatment standards. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under section 301(n), an application for approval of FDF variance must be based solely on: (1) Information submitted during rulemaking raising the factors that are fundamentally different; or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and must not result in

markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125 subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (*e.g.*, volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (*e.g.*, infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either: (a) A removal cost wholly out of proportion to the removal cost considered during development of the national limitations; or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by the EPA in establishing the applicable guidelines. The pretreatment regulations incorporate a similar requirement at 40 CFR 403.13(h)(9).

Facilities must submit all FDF variance applications to the appropriate Director (as defined at 40 CFR 122.2) no later than 180 days from the date the limitations or standards are established or revised (*see* CWA § 301(n)(2) and 40 CFR 122.21(m)(1)(i)(B)(2)). EPA regulations clarify that effluent limitations guidelines are ''established'' or ''revised'' on the date those effluent limitations guidelines are published in the **Federal Register** (*see* 40 CFR 122.21(m)(1)(i)(B)(2)). Therefore all facilities requesting FDF variances from the effluent limitations guidelines in today's final rule must submit all FDF variance applications to their Director (as defined at 40 CFR 122.2) no later than November 10, 2003.

An FDF variance is not available to a new source subject to NSPS.

2. Water Quality Variances

Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain non-conventional pollutants due to localized environmental factors so long as the discharge does not violate any water quality-based effluent limitations. These pollutants include ammonia, chlorine, color, iron, and phenols (as measured by the colorimetric 4-aminoantipyrine (4AAP) method). Dischargers subject to new or revised BAT limitations promulgated today for those pollutants may be eligible for a section 301(g) variance. Please note that section 301(g)(4)(c) requires the filing of section 301(g) variance applications pertaining to the new or revised limits not later than February 9, 2004. Existing section 301(g) variances for limitations not being revised today are not affected by today's action. This variance is not applicable to today's final rule as none of these parameters are regulated by today's final rule.

3. Permit Modifications

Even after EPA (or an authorized State) has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered in several circumstances. These could include a regulatory inspection or information submitted by the permittee which reveals the need for modification. Any interested person may request that a permit modification be made. There are two classifications of modifications: Major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually any modification that results in less stringent conditions is treated as a major modifications, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described at 40 CFR part 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described at 40 CFR part 122.63.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (*see* 58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule merely establishes technology-based discharge limitations and standards.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed at 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business according to the regulations of the Small Business Administration (SBA) at 13 CFR part 121.201, which define small businesses for Standard Industrial Classification (SIC) codes; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

To assess the potential economic impact of today's rule on small entities, EPA drew on: (1) A comparison of compliance costs to revenue; and (2) the firm and facility impact analyses discussed in section VIII of this preamble. First, EPA performed an analysis comparing annualized compliance costs to revenue for small entities at the firm level. EPA found that none of the small firms are estimated to incur compliance costs equaling or exceeding one percent of annual revenue. Second, EPA drew on the facility impact analysis, which estimated facility closures and other adverse changes to financial condition (referred to as ''moderate impacts''). See section VIII.D of today's rule for details of EPA's analysis of closures and moderate impacts for privately-owned businesses. This analysis indicated that the final rule would cause no regulated facilities owned by small entities to close or to incur moderate impacts. From these analyses, EPA determined that the final rule will not have a significant economic impact on a substantial number of small entities. See Chapter 10 of the final rule EEBA for a more detailed discussion of the economic impacts on small entities.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities in accordance with section 609(b) of the RFA (*see* 66 FR 519). The January 2001 proposed rule (*see* 66 FR 523) presents a summary of the Panel's recommendations and the full Panel Report (*see* DCN 16127, section 11.2) presents a detailed discussion of the Panel's advice and recommendations.

D. Unfunded Mandates Reform Act

1. UMRA Requirements

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

EPA is required by UMRA section 203 to develop a small government agency plan before it establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The estimated total annualized before-tax costs of compliance are $13.8 million ($2001). On an after-tax basis the costs total $11.9 million ($2001), of which the private sector incurs $3.0 million ($2001) and state and local governments that perform MP&M activities incur $9.0 million ($2001). Thus, today's rule is not subject to the requirements of UMRA sections 202 and 205.

EPA also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The final regulation imposes no new administrative costs on small governments owning POTWs because the regulations does not establish pretreatment standards for POTWs with indirectly discharging government-owned facilities. With respect to the 280 small government-owned facilities, EPA determined that the costs of the final rule are not significant for small governments. Of these facilities, 140 incur no compliance costs under the final rule and the remaining 140 incur annualized costs that average approximately $25,000 per facility. The total compliance cost for all the small government-owned facilities incurring costs under the regulation is $3.5 million. EPA concluded that these compliance costs will have no significant budgetary impacts for any of the governments owning these facilities. In addition, EPA concluded that the final rule does not uniquely affect small governments because small and large governments are affected by the rule in the same way. Thus, today's rule is not subject to the requirements of UMRA section 203.

Although today's final rule does not contain a Federal mandate under UMRA, EPA did undertake an assessment of the impacts of the final rule on State and local governments as part of its decision-making process. The following section discusses some of the results of EPA's review. More detail may be found in the EEBA.

2. Analysis of Impacts on Government Entities

EPA estimates that the costs to government-owned facilities to comply

with today's final rule are approximately $9.0 million annually ($2001), which is below the threshold specified in § 202. EPA, nevertheless, assessed the impacts on State and local governments during the course of development of the rule. Generally, governments may incur two types of costs as a result of the proposed regulation: (1) Direct costs to comply with the rule for facilities owned by government entities; and (2) administrative costs to implement the regulation. Both types of costs are discussed below.

a. Compliance Costs for Government-Owned MP&M Facilities

As previously explained, EPA surveyed government-owned facilities to assess the cost of the regulation on these facilities and the government entities that own them. The survey responses support EPA's analysis of the budgetary impacts of the regulation. Survey information includes: The size and income of the populations served by the affected government entities; the government's current revenues by source, taxable property, debt, pollution control spending, and bond rating; and the costs, funding sources, and other characteristics of the MP&M facilities owned by each government entity. Table XII–1 provides national estimates of the government entities that operate MP&M facilities potentially subject to the regulation by size.

Table XII–2 summarizes the annualized compliance costs incurred by government entities by size.

TABLE XII–1.—NUMBER OF GOVERNMENT-OWNED FACILITIES BY TYPE AND SIZE OF GOVERNMENT ENTITY

Size of government and status under final option	Municipal government	State government	County government	Regional government authority	Total
Large Governments (population >50,000)					
Number of regulated government entities	26	129	23	0	178
Number of government entities with exclusions	592	248	758	46	1,645
Small Governments (population <=50,000)					
Number of regulated government entities	280	0	0	0	280
Number of government entities with exclusions	1,470	0	212	0	1,682
All Governments					
Number of regulated government entities	306	129	23	0	458
Number of government entities with exclusions	2,062	248	970	46	3,327
Total	2,368	377	993	46	3,785

TABLE XII–2.—NUMBER OF REGULATED GOVERNMENT-OWNED FACILITIES AND COMPLIANCE COSTS BY SIZE OF GOVERNMENT

[million, 2001$]

	Number of facilities	Costs
Regulated Facilities Owned by Large Governments	178	$5.5
Regulated Facilities Owned by Small Governments	280	$3.5
All Regulated Government-Owned Facilities	458	$9.0

The table shows that 280 regulated facilities (or 61 percent) of the regulated government entities are owned by small governments. These facilities incur $3.5 million annually in compliance costs with an average cost of $12,575 per facility. Larger governmental entities own the remaining 178 regulated facilities (or 39 percent). EPA estimates that facilities owned by the larger governmental entities incur $5.5 million in annual compliance costs with an average cost of $30,700 per facility.

EPA used the analysis described in Section VIII.E to estimate the impacts on government owned facilities. EPA judged a government to experience significant budgetary impacts if: (1) One or more facilities incur compliance costs exceeding 1% of the baseline cost of service, (2) total debt service costs—post-compliance, and including costs to finance MP&M capital costs entirely with debt—exceed 25% of baseline revenue, *and* (3) total annualized pollution control costs per household, post-compliance, exceed one percent of median household income. EPA estimated no significant impacts for any of these facilities, based on these budgetary criteria. Thus, EPA concluded that none of the affected governments are expected to incur significant budgetary impacts as a result of the regulation. However, EPA also considered whether the MP&M regulation may significantly or uniquely affect small governments.

b. Small Government Impacts

EPA estimates that small governments (*i.e.,* governments with a population of less than 50,000) own 1,962 MP&M facilities. The decision not to regulate indirect facilities will exclude 1,682 small government-owned MP&M facilities from additional requirements. Thus, the final regulation covers 280 small government-owned facilities. Of these facilities, 140 incur no compliance costs under the final rule, and the remaining 140 incur annualized costs that average approximately $25,000 per facility. The total compliance cost for all the small government-owned facilities incurring costs under this regulation is $3.5 million. Of the 280 facilities owned by small governments, 140 have costs greater than 1 percent of baseline cost of

service (measured as total facility costs and expenditures, including operating, overhead and debt service costs and expenses). None of the affected governments incur costs that cause them to exceed the thresholds for impacts on taxpayers or for government debt burden. EPA therefore estimated no significant budgetary impacts for any of the governments owning these facilities. In accordance with this finding, EPA determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

c. POTW Administrative Costs

Since all indirect dischargers are excluded from the final rule, EPA expects the rule to impose no new POTW administrative costs.

3. Consultation

In addition to private industry, stakeholders affected by this rule include State and local government regulators. During development of the proposed and final rule, EPA consulted with all of these stakeholder groups on topics such as options development, cost models, pollutants to be regulated, cost of the regulation, and compliance alternatives. Some stakeholders provided helpful comments on the cost models, technology options, pollution prevention techniques, and monitoring alternatives.

Because many MP&M facilities in the proposed rule were indirect dischargers, the Agency involved POTWs as they would have had to implement the rule. EPA consulted with POTWs individually and through the Association of Municipal Sewerage Agencies (AMSA). In addition, EPA consulted with Regional pretreatment coordinators and State and local regulators. However, EPA is not promulgating new or revised pretreatment standards in today's final rule. See the proposed rule preamble (*see* 66 FR 519) for a summary of these consultation activities.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (*see* 64 FR 43255, August 10, 1999), requires Federal agencies to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule establishes effluent limitations imposing requirements that apply to metal product and machinery facilities, as defined by this final rule, when they discharge wastewater. The rule applies to States and localities if they own and operate in-scope MP&M facilities that discharge directly to surface waters. EPA estimates that 458 facilities subject to the regulation are owned and operated by state and local governments. EPA estimates that these facilities will experience an impact of $0 to $125,000, with an average impact of $20,000 per year ($2001).

In addition, the final rule will affect State governments responsible for administering CWA permitting programs. The final rule, at most, imposes minimal administrative costs on States that have an authorized NPDES program. (These States must incorporate the new limitations and standards in new and reissued NPDES permits). This rule does not change the current status of this administrative burden because this rule does not impose any further regulation on any indirect dischargers. The total cost of today's final rule to state and local governments is $9.0 million ($2001). Thus, Executive Order 13132 does not apply to this rule.

Although Executive Order 13132 does not apply to this rule, EPA did consult with State and local government representatives in developing this rule. See 66 FR 525 for a discussion of consultation activities.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (*see* 65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Based on the information collection efforts for this industry category, EPA does not expect any Indian tribal governments to own or operate in-scope MP&M facilities. In addition, EPA estimates few, if any, new facilities subject to the rule will be owned by tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

1. Executive Order 13045 Requirements

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (*see* 62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate affect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. Nevertheless, since the final rule is expected to reduce numerous pollutants, including lead, in fish tissue and drinking water that exceed human health criteria, EPA performed an analysis of children's health impacts reduced by the final rule.

2. Analysis of Children's Health Impacts

EPA assessed whether the final regulation will benefit children, including reducing health risk from exposure to MP&M pollutants from consumption of contaminated fish tissue and drinking water and improving recreational opportunities. The Agency was able to quantify only one category of benefits specific to children: avoided health damages to

pre-school age children from reduced exposure to lead. This analysis considered several measures of children's health benefits associated with lead exposure for children up to age six. Avoided neurological and cognitive damages were expressed as changes in three metrics: (1) Overall IQ levels; (2) the incidence of low IQ scores (<70); and (3) the incidence of blood-lead levels above 20 µg/dL. The Agency also assessed changes in the incidence of neonatal mortality from reduced maternal exposure to lead. EPA's methodology for assessing lead-related benefits to children is presented in the EEBA, Chapter 14. The Ohio case study analysis showed that the final rule is expected to yield $422,000 (2001$) in annual benefits to children in the State of Ohio from reduced neurological and cognitive damages and reduced incidence of neonatal mortality. On the other hand, the national-level analysis shows that benefits to children from reduced lead discharges are negligible nationwide. As noted in section IX of today's final rule, different findings from these two analyses are likely to be due to insufficient data and a more simplistic approach used in the national level analysis.

Children over age seven are also likely to benefit from reduced neurological and cognitive damages from reduced exposure to lead. Giedd *et al.* (1999) studied brain development among 10- to 18-year-old children and found substantial growth in brain development, mainly in the early teenage years (*see* DCN 20385, section 8.5.2.3). This research suggests that older children may be hypersensitive to lead exposure, as are children aged 0 to 7.

Additional benefits to children from reduced exposure to lead not quantified in this analysis may include prevention of the following adverse health effects: slowed or delayed growth, delinquent and anti-social behavior, metabolic effects, impaired heme synthesis, anemia, impaired hearing, and cancer (*see* DCN 20416, section 8.5.2.3).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (*see* May 22, 2001; 66 FR 28355) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not establish any technical standards, thus NTTAA does not apply to this rule. It should be noted, however, that this rulemaking requires direct dischargers to monitor for pH, TSS, and O&G (as HEM). All of these analytes can be measured by EPA methods that are specified in the tables at 40 CFR part 136.3.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

1. Executive Order 12898 Requirements

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 requires that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not exclude persons (including populations) from participation in, deny persons (including populations) the benefits of, or subject persons (including populations) to discrimination under, such programs, policies, and activities because of their race, color, or national origin.

2. Environmental Justice Analysis

EPA examined whether the final regulation will promote environmental justice in the areas affected by MP&M discharges. EPA analyzed the demographic characteristics of the populations residing in the counties affected by MP&M discharges to determine whether minority and or low-income populations are subject to disproportionally high environmental impacts. This analysis is based on information on the race, national origin, and income level of populations residing in counties traversed by reaches receiving discharges from the 32 sample MP&M facilities. EPA performed this analysis at the sample level only. The 32 sample facilities discharge to 32 unique reaches and are located in 46 counties in 12 States.

EPA compared demographic data from the 1990 Census for counties traversed by sample MP&M reaches with corresponding State-level data. The demographic characteristics that EPA analyzed include: percent African Americans, percent Native American, Eskimo, or Aleut, percent Asian of Pacific Islander, the percent of the population below the poverty level, and median income. This analysis shows that the socioeconomic characteristics of populations residing in counties abutting MP&M discharge reaches reflect corresponding State averages. As a result, EPA expects that environmental benefits resulting from the MP&M rule will not accrue to populations disproportionally based on race or national origin, and therefore will neither promote nor discourage environmental justice.

EPA also analyzed the human health impacts of the final regulation, including changes in cancer and systemic health risk to subsistence anglers. EPA determined that the reductions in these health risks resulting from the final regulation are negligible (*see* Chapter 17 of the EEBA for a detailed discussion of environmental justice analyses and alternative regulatory options).

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective after June 12, 2003.

Appendix A To The Preamble: Abbreviations, Acronyms, and Other Terms Used in Today's Final Rule

Act—The Clean Water Act
Agency—U.S. Environmental Protection Agency
AWQC—Ambient Water Quality Criteria
BAT—Best available technology economically achievable, as defined by section 304(b)(2)(B) of the Act.
BCT—Best conventional pollutant control technology, as defined by section 304(b)(4) of the Act.
BMP—Best management practices, as defined by section 304(e) of the Act.
BPJ—Best professional judgment
BPT—Best practicable control technology currently available, as defined by section 304(b)(1) of the Act.
CAA—Clean Air Act (42 U.S.C. 7401 *et seq.,* as amended)
CBI—Confidential Business Information
CWA—Clean Water Act (33 U.S.C 1251 *et seq.,* as amended)
Conventional Pollutants—Constituents of wastewater as determined by section 304(a)(4) of the Act and the regulations thereunder 40 CFR 401.16, including pollutants classified as biochemical oxygen demand, suspended solids, oil and grease, fecal coliform, and pH.
CE—Cost-effectiveness (ratio of compliance costs (in 1981$) to the toxic pounds of pollutants removed (in terms of pound-equivalents (PE))
DAF—Dissolved Air Flotation
Direct Discharger—An industrial discharger that introduces wastewater to a water of the United States with or without treatment by the discharger.
EEBA—Economic, Environmental, and Benefits Analysis of the Final Metal Products & Machinery Rule (EPA–821–B–03–002)
Effluent Limitation—A maximum amount, per unit of time, production, volume or other unit, of each specific constituent of the effluent from an existing point source that is subject to limitation. Effluent limitations may be expressed as a mass loading or as a concentration in milligrams of pollutant per liter discharged.
End-of-Pipe Treatment—Refers to those processes that treat a plant waste stream for pollutant removal prior to discharge.
FTE—Full Time Equivalents (related to the number of employees)
HAP—Hazardous Air Pollutant
HEM—Hexane Extractable Material
Indirect Discharger—An industrial discharger that introduces wastewater into a publicly owned treatment works.
MACT—Maximum Achievable Control Technology (applicable to NESHAPs)
MFJS—Metal Finishing Job Shops subcategory
MGY—Million gallons per year
MP&M—Metal Products and Machinery point source category
NAICS—North American Industry Classification System
NCA—Non-Chromium Anodizers subcategory
NCEPI—EPA's National Center for Environmental Publications
NESHAP—National Emission Standards for Hazardous Air Pollutants
NODA—Notice of Data Availability (June 5, 2002; 67 FR 38752)
NRMRL—EPA's National Risk Management Research Laboratory (formerly RREL—EPA's Risk Reduction Engineering Laboratory)
Nonconventional Pollutants—Pollutants that have not been designated as either conventional pollutants or priority pollutants
NPDES—National Pollutant Discharge Elimination system, a Federal Program requiring industry dischargers, including municipalities, to obtain permits to discharge pollutants to the nation's water, under section 402 of the Act
OCPSF—Organic chemicals, plastics, and synthetic fibers manufacturing point source category (40 CFR part 414)
OMB—Office of Management and Budget
ORP—Oxidation-Reduction Potential
OWS—Oily Wastes subcategory
PE—Pound-equivalents (the units used to weight toxic pollutants)
POTW—Publicly owned treatment works
Priority Pollutants—The 126 pollutants listed at 40 CFR part 423, appendix A
PPA—Pollutant Prevention Act of 1990 (42 U.S.C. 13101 *et seq.,* Public Law 101–508, November 5, 1990)
PSES—Pretreatment Standards for existing sources of indirect discharges, under section 307(b) of the Act
PSNS—Pretreatment standards for new sources of indirect discharges, under sections 307(b) and (c) of the Act
PWB—Printed Wiring Board subcategory
RRLM—Railroad Line Maintenance subcategory
SBA—U.S. Small Business Administration
SIC—Standards Industrial Classification, a numerical categorization scheme used by the U.S. Department of Commerce to denote segments of industry
SFF—Steel Forming & Finishing subcategory
SGT—HEM—Silica Gel Treated—Hexane Extractable Material refers to the freon-free oil and grease method (EPA Method 1664) used to measure the portion of oil and grease that is similar to total petroleum hydrocarbons
SDD—Shipbuilding Dry Dock subcategory
SIU—Significant Industrial User as defined in the General Pretreatment Regulations (40 CFR part 403)
TDD—Development Document for the Final Effluent Limitations Guidelines and Standards for the Metal Products & Machinery Point Source Category (EPA–821–B–03–001)
TOC—Total Organic Carbon (EPA Method 415.1)
TOP—Total Organics Parameter
TRI—Toxic Release Inventory
TTO—Total Toxic Organics
TWF—Toxic Weighting Factor
VOC—Volatile Organic Compound

List of Subjects in 40 CFR Part 438

Environmental protection; Metal products and machinery; Waste treatment and disposal; Water pollution control.

Dated: February 14, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons set forth in this preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

■ 1. A new part 438 is added to read as follows:

PART 438—METAL PRODUCTS AND MACHINERY POINT SOURCE CATEGORY

Sec.
438.1 General applicability.
438.2 General definitions.

Subpart A—Oily Wastes

438.10 Applicability.
438.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
438.13 Effluent limitations attainable by application of the best control technology for conventional pollutants (BCT).
438.15 New source performance standards (NSPS).

Appendix A to part 438—Typical Products in Metal Products & Machinery Sectors

Appendix B to part 438—Oily Operations Definitions

Appendix C to part 438—Metal-Bearing Operations Definitions

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

§ 438.1 General applicability.

(a) As defined more specifically in subpart A, except as provided in paragraphs (b) through (e) of this section, this part applies to process wastewater discharges from oily operations (as defined at § 438.2(f) and appendix B of this part) to surface waters from existing or new industrial facilities (including facilities owned and operated by Federal, State, or local governments) engaged in manufacturing, rebuilding, or maintenance of metal parts, products, or machines for use in the Metal Product & Machinery (MP&M) industrial sectors listed in this section. The MP&M industrial sectors consist of the following:

Aerospace;
Aircraft;
Bus and Truck;
Electronic Equipment;
Hardware;
Household Equipment;
Instruments;
Miscellaneous Metal Products;
Mobile Industrial Equipment;
Motor Vehicle;
Office Machine;

Ordnance;
Precious Metals and Jewelry;
Railroad;
Ships and Boats; or
Stationary Industrial Equipment.

(b) The regulations in this part do not apply to process wastewaters from metal-bearing operations (as defined at § 438.2(d) and appendix C of this part) or process wastewaters which are subject to the limitations and standards of other effluent limitations guidelines (*e.g.*, Metal Finishing (40 CFR part 433) or Iron and Steel Manufacturing (40 CFR part 420)). The regulations in this part also do not apply to process wastewaters from oily operations (as defined at § 438.2(f) and appendix B of this part) commingled with process wastewaters already covered by other effluent limitations guidelines or with process wastewaters from metal-bearing operations. This provision must be examined for each point source discharge at a given facility.

(c) Wastewater discharges resulting from the washing of cars, aircraft or other vehicles, when performed only for aesthetic or cosmetic purposes, are not subject to this part. Direct discharges resulting from the washing of cars, aircraft or other vehicles, when performed as a preparatory step prior to one or more successive manufacturing, rebuilding, or maintenance operations, are subject to this part.

(d) Wastewater discharges from railroad line maintenance facilities (as defined at § 438.2(h)) are not subject to this part. Wastewater discharges from railroad overhaul or heavy maintenance facilities (as defined at § 438.2(i)) may be covered by subpart A of this part, the Metal Finishing Point Source Category (40 CFR part 433), or by other effluent limitations guidelines, as applicable.

(e) The following wastewater discharges are not subject to this part:

(1) Non-process wastewater as defined at § 438.2(e).

(2) Wastewater discharges introduced into a Publicly Owned Treatment Works (POTW) or a Federally owned and operated Treatment Works Treating Domestic Sewage (TWTDS), as defined at 40 CFR 122.2.

(3) Process wastewater generated by maintenance and repair activities at gasoline service stations, passenger car rental facilities, or utility trailer and recreational vehicle rental facilities.

(4) Wastewater discharges generated from gravure cylinder preparation or metallic platemaking conducted within or for printing and publishing facilities.

(5) Wastewater discharges in or on dry docks and similar structures, such as graving docks, building ways, marine railways, lift barges at shipbuilding facilities (or shipyards), and ships that are afloat.

(6) Wastewater generated by facilities primarily performing drum reconditioning and cleaning to prepare metal drums for resale, reuse, or disposal.

§ 438.2 General definitions.

As used in this part:

(a) The general definitions and abbreviations at 40 CFR part 401 shall apply.

(b) The regulated parameters are listed with approved methods of analysis in Table 1B at 40 CFR 136.3, and are defined as follows:

(1) *O&G (as HEM)* means total recoverable oil and grease measured as n-hexane extractable material.

(2) *TSS* means total suspended solids.

(c) *Corrosion preventive coating* means the application of removable oily or organic solutions to protect metal surfaces against corrosive environments. Corrosion preventive coatings include, but are not limited to: petrolatum compounds, oils, hard dry-film compounds, solvent-cutback petroleum-based compounds, emulsions, water-displacing polar compounds, and fingerprint removers and neutralizers. Corrosion preventive coating does not include electroplating, or chemical conversion coating operations.

(d) *Metal-bearing operations* means one or more of the following: abrasive jet machining; acid pickling neutralization; acid treatment with chromium; acid treatment without chromium; alcohol cleaning; alkaline cleaning neutralization; alkaline treatment with cyanide; anodizing with chromium; anodizing without chromium; carbon black deposition; catalyst acid pre-dip; chemical conversion coating without chromium; chemical milling (or chemical machining); chromate conversion coating (or chromating); chromium drag-out destruction; cyanide drag-out destruction; cyaniding rinse; electrochemical machining; electroless catalyst solution; electroless plating; electrolytic cleaning; electroplating with chromium; electroplating with cyanide; electroplating without chromium or cyanide; electropolishing; galvanizing/hot dip coating; hot dip coating; kerfing; laminating; mechanical and vapor plating; metallic fiber cloth manufacturing; metal spraying (including water curtain); painting-immersion (including electrophoretic, ''E-coat''); photo imaging; photo image developing; photoresist application; photoresist strip; phosphor deposition; physical vapor deposition; plasma arc machining; plastic wire extrusion; salt bath descaling; shot tower—lead shot manufacturing; soldering; solder flux cleaning; solder fusing; solder masking; sputtering; stripping (paint); stripping (metallic coating); thermal infusion; ultrasonic machining; vacuum impregnation; vacuum plating; water shedder; wet air pollution control; wire galvanizing flux; and numerous sub-operations within those listed in this paragraph. In addition, process wastewater also results from associated rinses that remove materials that the preceding processes deposit on the surface of the workpiece. These metal-bearing operations are defined in appendix C of this part.

(e) *Non-process wastewater* means sanitary wastewater, non-contact cooling water, water from laundering, and non-contact storm water. Non-process wastewater for this part also includes wastewater discharges from non-industrial sources such as residential housing, schools, churches, recreational parks, shopping centers as well as wastewater discharges from gas stations, utility plants, and hospitals.

(f) *Oily operations* means one or more of the following: abrasive blasting; adhesive bonding; alkaline cleaning for oil removal; alkaline treatment without cyanide; aqueous degreasing; assembly/disassembly; burnishing; calibration; corrosion preventive coating (as defined in paragraph (c) of this section); electrical discharge machining; floor cleaning (in process area); grinding; heat treating; impact deformation; iron phosphate conversion coating; machining; painting-spray or brush (including water curtains); polishing; pressure deformation; solvent degreasing; steam cleaning; testing (*e.g.*, hydrostatic, dye penetrant, ultrasonic, magnetic flux); thermal cutting; tumbling/barrel finishing/mass finishing/vibratory finishing; washing (finished products); welding; wet air pollution control for organic constituents; and numerous sub-operations within those listed in this paragraph. In addition, process wastewater also results from associated rinses that remove materials that the preceding processes deposit on the surface of the workpiece. These oily operations are defined in appendix B of this part.

(g) *Process wastewater* means wastewater as defined at 40 CFR parts 122 and 401, and includes wastewater from air pollution control devices.

(h) *Railroad line maintenance facilities* means facilities specified at § 438.1 that only perform routine cleaning and light maintenance on railroad engines, cars, car-wheel trucks,

or similar parts or machines, and discharge wastewater exclusively from oily operations (as defined in paragraph (f) of this section and appendix B of this part). These facilities only perform one or more of the following operations: assembly/disassembly, floor cleaning, maintenance machining (wheel truing), touch-up painting, and washing.

(i) *Railroad overhaul or heavy maintenance facilities* means facilities engaged in the manufacture, overhaul, or heavy maintenance of railroad engines, cars, car-wheel trucks, or similar parts or machines. These facilities typically perform one or more of the operations in paragraph (h) of this section and one or more of the following operations: abrasive blasting, alkaline cleaning, aqueous degreasing, corrosion preventive coating, electrical discharge machining, grinding, heat treating, impact deformation, painting, plasma arc machining, polishing, pressure deformation, soldering/brazing, stripping (paint), testing, thermal cutting, and welding.

Subpart A—Oily Wastes

§ 438.10 Applicability.

(a) This subpart applies to process wastewater directly discharged from facilities specified at § 438.1.

(b) This subpart applies to process wastewater discharges from oily operations (as defined at § 438.2(f) and appendix B of this part).

(c) This subpart does not apply to process wastewater discharges from metal-bearing operations (as defined at § 438.2(d) and appendix C of this part).

§ 438.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided at 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT. Discharges must remain within the pH range 6 to 9 and must not exceed the following:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]
1. TSS	62
2. O&G (as HEM)	46

[1] mg/L (ppm).

§ 438.13 Effluent limitations attainable by application of the best control technology for conventional pollutants (BCT).

Except as provided at 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitation representing the application of BCT: Limitations for TSS, O&G (as HEM) and pH are the same as the corresponding limitation specified at § 438.12.

§ 438.15 New source performance standards (NSPS).

New point sources subject to this subpart must achieve the new source performance standards (NSPS) for TSS, O&G (as HEM), and pH, which are the same as the corresponding limitation specified at § 438.12. The performance standards apply with respect to each new point source that commences discharge after June 12, 2003.

Appendix A to Part 438—Typical Products in Metal Products and Machinery Sectors

AEROSPACE	AIRCRAFT	BUS & TRUCK
Guided Missiles & Space Vehicle	Aircraft Engines & Engine Parts	Bus Terminal & Service Facilities
Guided Missile & Space Vehicle Prop	Aircraft Frames Manufacturing	Courier Services, Except by Air Freight Truck Terminals, W/ or W/O Maintenance.
Other Space Vehicle & Missile Parts	Aircraft Parts & Equipment	Intercity & Rural Highways (Buslines)
	Airports, Flying Fields, & Services	Local & Suburban Transit (Bus & subway)
		Local Passenger. Trans. (Lim., Amb., Sight See)
		Local Trucking With Storage
		Local Trucking Without Storage
		Motor Vehicle Parts & Accessories
		School Buses
		Trucking
		Truck & Bus Bodies
		Truck Trailers

ELECTRONIC EQUIPMENT
Communications Equipment
Connectors for Electronic Applications
Electric Lamps
Electron Tubes
Electronic Capacitors
Electronic Coils & Transformers
Electronic Components
Radio & TV Communications Equipment
Telephone & Telegraph Apparatus

HARDWARE
Architectural & Ornamental Metal Work
Bolts, Nuts, Screws, Rivets & Washers
Crowns & Closures
Cutlery
Fabricated Metal Products
Fabricated Pipe & Fabricated Pipe Fittings
Fabricated Plate Work (Boiler Shops)
Fabricated Structural Metal
Fasteners, Buttons, Needles & Pins
Fluid Power Values & Hose Fittings
Hand & Edge Tools
Hand Saws & Saw Blades
Hardware
Heating Equipment, Except Electric
Industrial Furnaces & Ovens
Iron & Steel Forgings
Machine Tool Accessories & Measuring Devices
Machine Tools, Metal Cutting Types
Machine Tools, Metal Forming Types
Metal Shipping Barrels, Drums, Kegs, Pails
Metal Stampings
Power Driven Hand Tools
Prefabricated Metal Buildings & Components
Screw Machine Products
Sheet Metal Work
Special Dies & Tools, Die Sets, Jigs, Etc.
Steel Springs
Valves & Pipe Fittings
Wire Springs

HOUSEHOLD EQUIPMENT
Commercial, Ind. & Inst. Elec. Lighting Fixtures
Current-Carrying Wiring Devices
Electirc Housewares & Fans
Electric Lamps
Farm Freezers
Household Appliances
Household Cooking Equipment
Household Refrig. & Home & Farm Freezers
Household Laundry Equipment
Household Vacuum Cleaners
Lighting Equipment
Noncurrent-Carrying Wiring Devices
Radio & Television Repair Shops
Radio & Television Sets Except Commn. Types
Refrig. & Air Cond. Serv. & Repair Shops
Residential Electrical Lighting Fixtures

INSTRUMENTS
Analytical Instruments
Automatic Environmental Controls
Coating, Engraving, & Allied Services
Dental Equipment & Supplies
Ophthalmic Goods
Fluid Meters & Counting Devices
Instruments to Measure Electricity
Laboratory Apparatus & Furniture Manufacturing Industries
Measuring & Controlling Devices
Optical Instruments & Lenses
Orthopedic, Prosthetic, & Surgical Supplies
Pens, Mechanical Pencils, & Parts
Process Control Instruments
Search & Navigation Equipment
Surgical & Medical Instruments & Apparatus
Watches, Clocks, Associated Devices & Parts

MOBILE INDUSTRIAL EQUIPMENT
Construction Machinery & Equipment
Farm Machinery & Equipment
Garden Tractors & Lawn & Garden Equipment
Hoist, Industrial Cranes & Monorails
Industrial Trucks, Tractors, Trailers, Tanks & Tank Components
Mining machinery & equipment, except oil field

MOTOR VEHICLE
Auto Exhaust System Repair Shops
Automobile Dealers (new & used)
Auto. Dealers (Dunebuggy, Go-cart, Snowmobile)
Automobile Service (includes Diag. & Insp. Cntrs.)
Automotive Equipment
Automotive Glass Replacement Shops
Automotive Repairs Shops
Automotive Stampings
Automotive Transmission Repair Shops
Carburetors, Pistons Rings, Values
Electrical Equipment for Motor
General Automotive Repair Shops
Mobile Homes
Motor Vehicle & Automotive Bodies
Motor Vehicle Parts & Accessories
Motorcycle Dealers
Motorcycles
Passenger Car Leasing
Recreational & Utility Trailer Dealers
Taxicabs
Top & Body Repair & Paint Shops
Travel Trailers & Campers
Vehicles
Vehicular Lighting Equipment
Welding Shops (includes Automotive)

INSTRUMENTS OFFICE MACHINE
Calculating & Accounting Equipment
Computer Maintenance & Repair
Computer Peripheral Equipment
Computer Related Services
Computer Rental & Leasing
Computer Storage Devices
Computer Terminals
Electrical & Electronic Repair
Electronic Computers
Office Machines
Photographic Equipment & Supplies

ORDNANCE
Ammunition
Ordnance & Accessories
Small Arms
Small Arms Ammunition

PRECIOUS METALS & JEWELRY
Costume Jewelry
Jewelers' Materials & Lapidary Work
Jewelry, Precious Metal
Musical Instruments
Silverware, Plated Ware, & Stainless

RAILROAD	SHIPS & BOATS	STATIONARY INDUSTRIAL EQUIPMENT
Line-Haul Railroads	Boat Building & Repairing	Air & Gas Compressors
Railcars, Railway Systems	Deep Sea Domestic Transportation of Freight	Automatic Vending Machines
Switching & Terminal Stations	Deep Sea Passenger Transportation, Except by Ferry	Ball & Roller Bearings
	Freight Transportation on the Great Lakes	Blowers & Exhaust & Ventilation Fans
	Marinas	Commercial Laundry Equipment
	Ship Building & Repairing	Conveyors & Conveying Equipment
	Towing & Tugboat Service	Electric Industrial Apparatus
	Water Passenger Transportation Ferries	Elevators & Moving Stairways
	Water Transportation of Freight	Equipment Rental & Leasing
	Water Transportation Services	Food Product Machinery
		Fluid Power Cylinders & Actuators
		Fluid Power Pumps & Motors
		General Industrial Machinery
		Heavy Construction Equipment Rental
		Industrial Machinery
		Industrial Patterns
		Industrial Process Furnaces & Ovens
		Internal Combustion Engines
		Measuring & Dispensing Pumps
		Mechanical Power Transmission Equipment
		Metal Working Machinery
		Motors & Generators
		Oil Field Machinery & Equipment
		Packaging Machinery
		Paper Industries Machinery
		Printing Trades Machinery & Equipment
		Pumps & Pumping Equipment
		Refrigeration & Air & Heating Equipment
		Relays & Industrial Controls
		Rolling Mill Machinery & Equipment
		Scales & Balances, Except Laboratory
		Service Industry Machines
		Special Industry Machinery
		Speed Changers, High Speed Drivers & Gears
		Steam, Gas, Hydraulic Turbines, Generator Units
		Switchgear & Switchboard Apparatus
		Textile Machinery
		Transformers
		Welding Apparatus
		Woodworking Machinery
MISCELLANEOUS METAL PRODUCTS		
Miscellaneous Fabricated Wire Products		
Miscellaneous Metal Work		
Miscellaneous Repair Shops & Related Services		
Miscellaneous Transportation Equipment		

Appendix B to Part 438—Oily Operations Definitions

Note: The definitions in this appendix shall not be used to differentiate between the six ''core'' metal finishing operations (*i.e.*, Electroplating, Electroless Plating, Anodizing, Coating (chromating, phosphating, and coloring), Chemical Etching and Milling, and Printed Circuit Board Manufacture) and forty ''ancillary'' process operations listed at 40 CFR 433.10(a).

Abrasive Blasting involves removing surface film from a part by using abrasive directed at high velocity against the part. Abrasive blasting includes bead, grit, shot, and sand blasting, and may be performed either dry or with water. The primary applications of wet abrasive blasting include: Removing burrs on precision parts; producing satin or matte finishes; removing fine tool marks; and removing light mill scale, surface oxide, or welding scale. Wet blasting can be used to finish fragile items such as electronic components. Also, some aluminum parts are wet blasted to achieve a fine-grained matte finish for decorative purposes. In abrasive blasting, the water and abrasive typically are reused until the particle size diminishes due to impacting and fracture.

Adhesive Bonding involves joining parts using an adhesive material. Typically, an organic bonding compound is used as the adhesive. This operation usually is dry; however, aqueous solutions may be used as bonding agents or to contain residual organic bonding materials.

Alkaline Cleaning for Oil Removal is a general term for the application of an alkaline cleaning agent to a metal part to remove oil and grease during the manufacture, maintenance, or rebuilding of a metal product. This unit operation does not include washing of the finished products after routine use (as defined in ''Washing (Finished Products)'' in this appendix), or applying an alkaline cleaning agent to remove nonoily contaminants such as dirt and scale (as defined in ''Alkaline Treatment Without Cyanide'' in this appendix and ''Alkaline Treatment With Cyanide'' in appendix C of this part). Wastewater generated includes spent cleaning solutions and rinse waters.

(1) Alkaline cleaning is performed to remove foreign contaminants from parts. This operation usually is done prior to finishing (*e.g.*, electroplating).

(2) Emulsion cleaning is an alkaline cleaning operation that uses either complex chemical enzymes or common organic solvents (*e.g.,* kerosene, mineral oil, glycols, and benzene) dispersed in water with the aid of an emulsifying agent. The pH of the solvent usually is between 7 and 9, and, depending on the solvent used, cleaning is performed at temperatures from room temperature to 82 °C (180 °F). This operation often is used as a replacement for vapor degreasing.

Alkaline Treatment Without Cyanide is a general term used to describe the application of an alkaline solution not containing cyanide to a metal surface to clean the metal surface or prepare the metal surface for further surface finishing.

Aqueous Degreasing involves cleaning metal parts using aqueous-based cleaning chemicals primarily to remove residual oils and greases from the part. Residual oils can be from previous operations (*e.g.*, machine coolants), oil from product use in a dirty environment, or oil coatings used to inhibit corrosion. Wastewater generated by this operation includes spent cleaning solutions and rinse waters.

Assembly/Disassembly involves fitting together previously manufactured or rebuilt parts or components into a complete metal product or machine or taking a complete metal product or machine apart. Assembly/disassembly operations are typically dry; however, special circumstances can require water for cooling or buoyancy. Also, rinsing may be necessary under some conditions.

Burnishing involves finish sizing or smooth finishing a part (previously machined or ground) by displacing, rather than removing, minute surface irregularities with smooth point or line-contact, fixed or rotating tools. Lubricants or soap solutions can be used to cool the tools used in burnishing operations. Wastewater generated during burnishing include process solutions and rinse water.

Calibration is performed to provide reference points for the use of a product. This unit operation typically is dry, although water may be used in some cases (*e.g.*, pumping water for calibration of a pump). Water used in this unit operation usually does not contain additives.

Corrosion Preventive Coating involves applying removable oily or organic solutions to protect metal surfaces against corrosive environments. Corrosion preventive coatings include, but are not limited to: Petrolatum compounds, oils, hard dry-film compounds, solvent-cutback petroleum-based compounds, emulsions, water-displacing polar compounds, and fingerprint removers and neutralizers. Corrosion preventive coating does not include electroplating, or chemical conversion coating operations. Many corrosion preventive materials also are formulated to function as lubricants or as a base for paint. Typical applications include: Assembled machinery or equipment in standby storage; finished parts in stock or spare parts for replacement; tools such as drills, taps, dies, and gauges; and mill products such as sheet, strip, rod and bar. Wastewater generated during corrosion preventive coating includes spent process solutions and rinses. Process solutions are discharged when they become contaminated with impurities or are depleted of constituents. Corrosion preventive coatings typically do not require an associated rinse, but parts are sometimes rinsed to remove the coating before further processing.

Electrical Discharge Machining involves removing metals by a rapid spark discharge between different polarity electrodes, one the part and the other the tool, separated by a small gap. The gap may be filled with air or a dielectric fluid. This operation is used primarily to cut tool alloys, hard nonferrous alloys, and other hard-to-machine materials. Most electrical discharge machining processes are operated dry; however, in some cases, the process uses water and generates wastewater containing dielectric fluid.

Floor Cleaning (in Process Area) removes dirt, debris, and process solution spills from process area floors. Floors can be cleaned using wet or dry methods, such as vacuuming, mopping, dry sweeping, and hose rinsing. Non-process area floor cleaning in offices and other similar non-process areas is not included in this unit operation.

Grinding involves removing stock from a part by using abrasive grains held by a rigid or semirigid binder. Grinding shapes or deburrs the part. The grinding tool usually is a disk (the basic shape of grinding wheels), but can also be a cylinder, ring, cup, stick, strip, or belt. The most commonly used abrasives are aluminum oxide, silicon carbide, and diamond. The process may use a grinding fluid to cool the part and remove debris or metal fines. Wastewater generated during grinding includes spent coolants and rinses. Metal-working fluids become spent for a number of reasons, including increased biological activity (*i.e.*, the fluids become rancid) or decomposition of the coolant additives. Rinse waters typically are assimilated into the working fluid or treated on site.

Heat Treating involves modifying the physical properties of a part by applying controlled heating and cooling cycles. This operation includes tempering, carburizing, cyaniding, nitriding, annealing, aging, normalizing, austenitizing, austempering, siliconizing, martempering, and malleablizing. Parts are heated in furnaces or molten salt baths, and then may be cooled by quenching in aqueous solutions (*e.g.*, brine solutions), neat oils (pure oils with little or no impurities), or oil/water emulsions. Heat treating typically is a dry operation, but is considered a wet operation if aqueous quenching solutions are used. Wastewater includes spent quench water and rinse water.

Impact Deformation involves applying impact force to a part to permanently deform or shape it. Impact deformation may include mechanical processes such as hammer forging, shot peening, peening, coining, high-energy-rate forming, heading, or stamping. Natural and synthetic oils, light greases, and pigmented lubricants are used in impact deformation operations. Pigmented lubricants include whiting, lithapone, mica, zinc oxide, molybdenum disulfide, bentonite, flour, graphite, white lead, and soap-like materials. These operations typically are dry, but wastewater can be generated from lubricant discharge and from rinsing operations associated with the operation.

Iron Phosphate Conversion Coating is the process of applying a protective coating on the surface of a metal using a bath consisting of a phosphoric acid solution containing no metals (*e.g.*, manganese, nickel, or zinc) or a phosphate salt solution (*i.e.*, sodium or potassium salts of phosphoric acid solutions) containing no metals (*e.g.*, manganese, nickel, or zinc) other than sodium or potassium. Any metal concentrations in the bath are from the substrate.

Machining involves removing stock from a part (as chips) by forcing a cutting tool against the part. This includes machining processes such as turning, milling, drilling, boring, tapping, planing, broaching, sawing, shaving, shearing, threading, reaming, shaping, slotting, hobbing, and chamfering. Machining processes use various types of metal-working fluids, the choice of which depends on the type of machining being performed and the preference of the machine shop. The fluids can be categorized into four groups: Straight oil (neat oils), synthetic, semisynthetic, and water-soluble oil. Machining operations generate wastewater from working fluid or rinse water discharge. Metal-working fluids periodically are discarded because of reduced performance or development of a rancid odor. After machining, parts are sometimes rinsed to remove coolant and metal chips. The coolant reservoir is sometimes rinsed, and the rinse water is added to the working fluid.

Painting-Spray or Brush (Including Water Curtains) involves applying an organic coating to a part. Coatings such as paint, varnish, lacquer, shellac, and plastics are applied by spraying, brushing, roll coating, lithographing, powder coating, and wiping. Water is used in painting operations as a solvent (water-borne formulations) for rinsing, for cleanup, and for water-wash (or curtain) type spray booths. Paint spray booths typically use most of the water in this unit operation. Spray booths capture overspray (*i.e.*, paint that misses the product during application), and control the introduction of pollutants into the workplace and environment.

Polishing involves removing stock from a part using loose or loosely held abrasive grains carried to the part by a flexible support. Usually, the objective is to achieve a desired surface finish or appearance rather then to remove a specified amount of stock. Buffing is included in this unit operation, and usually is performed using a revolving cloth or sisal buffing wheel, which is coated with a suitable compound. Liquid buffing compounds are used extensively for large-volume production on semiautomated or automated buffing equipment. Polishing operations typically are dry, although liquid compounds and associated rinses are used in some polishing processes.

Pressure Deformation involves applying force (other than impact force) to permanently deform or shape a part. Pressure deformation may include rolling, drawing, bending, embossing, sizing, extruding, squeezing, spinning, necking, forming, crimping or flaring. These operations use natural and synthetic oils, light greases, and pigmented lubricants. Pigmented lubricants include whiting, lithapone, mica, zinc oxide, molybdenum disulfide, bentonite, flour, graphite, white lead, and soap-like materials. Pressure deformation typically is dry, but wastewater is sometimes generated from the discharge of lubricants or from rinsing associated with the process.

Solvent Degreasing removes oils and grease from the surface of a part using organic solvents, including aliphatic petroleum (*e.g.*, kerosene, naphtha), aromatics (*e.g.*, benzene, toluene), oxygenated hydrocarbons (*e.g.*,

ketones, alcohol, ether), and halogenated hydrocarbons (*e.g.*, 1,1,1-trichloroethane, trichloroethylene, methylene chloride). Solvent cleaning takes place in either the liquid or vapor phase. Solvent vapor degreasing normally is quicker than solvent liquid degreasing. However, ultrasonic vibration is sometimes used with liquid solvents to decrease the required immersion time of complex shapes. Solvent cleaning often is used as a precleaning operation prior to alkaline cleaning, as a final cleaning of precision parts, or as surface preparation for some painting operations. Solvent degreasing operations typically are not followed by rinsing, although rinsing is performed in some cases.

Steam Cleaning removes residual dirt, oil, and grease from parts after processing though other unit operations. Typically, additives are not used in this operation; the hot steam removes the pollutants. Wastewater is generated when the cleaned parts are rinsed.

Testing (e.g., hydrostatic, dye penetrant, ultrasonic, magnetic flux) involves applying thermal, electrical, mechanical, hydraulic, or other energy to determine the suitability or functionality of a part, assembly, or complete unit. Testing also may include applying surface penetrant dyes to detect surface imperfections. Other examples of tests frequently performed include electrical testing, performance testing, and ultrasonic testing; these tests typically are dry but may generate wastewater under certain circumstances. Testing usually is performed to replicate some aspect of the working environment. Wastewater generated during testing includes spent process solutions and rinses.

Thermal Cutting involves cutting, slotting, or piercing a part using an oxy-acetylene oxygen lance, electric arc cutting tool, or laser. Thermal cutting typically is a dry process, except for the use of contact cooling waters and rinses.

Tumbling/Barrel Finishing/Mass Finishing/Vibratory Finishing involves polishing or deburring a part using a rotating or vibrating container and abrasive media or other polishing materials to achieve a desired surface appearance. Parts to be finished are placed in a rotating barrel or vibrating unit with an abrasive media (*e.g.*, ceramic chips, pebbles), water, and chemical additives (*e.g.*, alkaline detergents). As the barrel rotates, the upper layer of the part slides toward the lower side of the barrel, causing the abrading or polishing. Similar results can be achieved in a vibrating unit, where the entire contents of the container are in constant motion, or in a centrifugal unit, which compacts the load of media and parts as the unit spins and generates up to 50 times the force of gravity. Spindle finishing is a similar process, where parts to be finished are mounted on fixtures and exposed to a rapidly moving abrasive slurry. Wastewater generated during barrel finishing includes spent process solutions and rinses. Following the finishing process, the contents of the barrel are unloaded. Process wastewater is either discharged continuously during the process, discharged after finishing, or collected and reused. The parts are sometimes given a final rinse to remove particles of abrasive media.

Washing (Finished Products) involves cleaning finished metal products after use or storage using fresh water or water containing a mild cleaning solution. This unit operation applies only to the finished products that do not require maintenance or rebuilding.

Welding involves joining two or more pieces of material by applying heat, pressure, or both, with or without filler material, to produce a metallurgical bond through fusion or recrystallization across the interface. This includes gas welding, resistance welding, arc welding, cold welding, electron beam welding, and laser beam welding. Welding typically is a dry process, except for the occasional use of contact cooling waters or rinses.

Wet Air Pollution Control for Organic Constituents involves using water to remove organic constituents that are entrained in air streams exhausted from process tanks or production areas. Most frequently, wet air pollution control devices are used with cleaning and coating processes. A common type of wet air pollution control is the wet packed scrubber consisting of a spray chamber that is filled with packing material. Water is continuously sprayed onto the packing and the air stream is pulled through the packing by a fan. Pollutants in the air stream are absorbed by the water droplets and the air is released to the atmosphere. A single scrubber often serves numerous process tanks.

Appendix C to Part 438—Metal-Bearing Operations Definitions

Note: The definitions in this appendix shall not be used to differentiate between the six ''core'' metal finishing operations (*i.e.*, Electroplating, Electroless Plating, Anodizing, Coating (chromating, phosphating, and coloring), Chemical Etching and Milling, and Printed Circuit Board Manufacture) and forty ''ancillary'' process operations listed at 40 CFR 433.10(a).

Abrasive Jet Machining includes removing stock material from a part by a high-speed stream of abrasive particles carried by a liquid or gas from a nozzle. Abrasive jet machining is used for deburring, drilling, and cutting thin sections of metal or composite material. Unlike abrasive blasting, this process operates at pressures of thousands of pounds per square inch. The liquid streams typically are alkaline or emulsified oil solutions, although water also can be used.

Acid Pickling Neutralization involves using a dilute alkaline solution to raise the pH of acid pickling rinse water that remains on the part after pickling. The wastewater from this operation is the acid pickling neutralization rinse water.

Acid Treatment With Chromium is a general term used to describe any application of an acid solution containing chromium to a metal surface. Acid cleaning, chemical etching, and pickling are types of acid treatment. Chromic acid is used occasionally to clean cast iron, stainless steel, cadmium and aluminum, and bright dipping of copper and copper alloys. Also, chromic acid solutions can be used for the final step in acid cleaning phosphate conversion coating systems. Chemical conversion coatings formulated with chromic acid are defined at ''Chromate Conversion Coating (or Chromating)'' in this appendix. Wastewater generated during acid treatment includes spent solutions and rinse waters. Spent solutions typically are batch discharged and treated or disposed of off site. Most acid treatment operations are followed by a water rinse to remove residual acid.

Acid Treatment Without Chromium is a general term used to describe any application of an acid solution not containing chromium to a metal surface. Acid cleaning, chemical etching, and pickling are types of acid treatment. Wastewater generated during acid treatment includes spent solutions and rinse waters. Spent solutions typically are batch discharged and treated or disposed of off site. Most acid treatment operations are followed by a water rinse to remove residual acid.

Alcohol Cleaning involves removing dirt and residue material from a part using alcohol.

Alkaline Cleaning Neutralization involves using a dilute acid solution to lower the pH of alkaline cleaning rinse water that remains on the part after alkaline cleaning. Wastewater from this operation is the alkaline cleaning neutralization rinse water.

Alkaline Treatment With Cyanide is the cleaning of a metal surface with an alkaline solution containing cyanide. Wastewater generated during alkaline treatment includes spent solutions and rinse waters. Alkaline treatment solutions become contaminated from the introduction of soils and dissolution of the base metal. They usually are treated and disposed of on a batch basis. Alkaline treatment typically is followed by a water rinse that is discharged to a treatment system.

Anodizing With Chromium involves producing a protective oxide film on aluminum, magnesium, or other light metal, usually by passing an electric current through an electrolyte bath in which the metal is immersed. Anodizing may be followed by a sealant operation. Chromic acid anodic coatings have a relatively thick boundary layer and are more protective than are sulfuric acid coatings. For these reasons, chromic acid is sometimes used when the part cannot be rinsed completely. These oxide coatings provide corrosion protection, decorative surfaces, a base for painting and other coating processes, and special electrical and mechanical properties. Wastewaters generated during anodizing include spent anodizing solutions, sealants, and rinse waters. Because of the anodic nature of the process, anodizing solutions become contaminated with the base metal being processed. These solutions eventually reach an intolerable concentration of dissolved metal and require treatment or disposal. Rinse water following anodizing, coloring, and sealing typically is discharged to a treatment system.

Anodizing Without Chromium involves applying a protective oxide film to aluminum, magnesium, or other light metal, usually by passing an electric current through an electrolyte bath in which the metal is immersed. Phosphoric acid, sulfuric acid, and boric acid are used in anodizing. Anodizing also may include sealant baths. These oxide coatings provide corrosion protection, decorative surfaces, a base for

painting and other coating processes, and special electrical and mechanical properties. Wastewater generated during anodizing includes spent anodizing solutions, sealants, and rinse waters. Because of the anodic nature of the process, anodizing solutions become contaminated with the base metal being processed. These solutions eventually reach an intolerable concentration of dissolved metal and require treatment or disposal. Rinse water following anodizing, coloring, and sealing steps typically is discharged to a treatment systems.

Carbon Black Deposition involves coating the inside of printed circuit board holes by dipping the circuit board into a tank that contains carbon black and potassium hydroxide. After excess solution dips from the circuit boards, they are heated to allow the carbon black to adhere to the board.

Catalyst Acid Pre-Dip uses rinse water to remove residual solution from a part after the part is processed in an acid bath. The wastewater generated in this unit operation is the rinse water.

Chemical Conversion Coating without Chromium is the process of applying a protective coating on the surface of a metal without using chromium. Such coatings are applied through phosphate conversion (except for ''Iron Phosphate Conversion Coating,'' see appendix B of this part), metal coloring, or passivation. Coatings are applied to a base metal or previously deposited metal to increase corrosion protection and lubricity, prepare the surface for additional coatings, or formulate a special surface appearance. This unit process includes sealant operations that use additives other than chromium.

(1) In phosphate conversion, coatings are applied for one or more of the following reasons: to provide a base for paints and other organic coatings; to condition surfaces for cold forming operations by providing a base for drawing compounds and lubricants; to impart corrosion resistance to the metal surface; or to provide a suitable base for corrosion-resistant oils or waxes. Phosphate conversion coatings are formed by immersing a metal part in a dilute solution of phosphoric acid, phosphate salts, and other reagents.

(2) Metal coloring by chemical conversion coating produces a large group of decorative finishes. Metal coloring includes the formation of oxide conversion coatings. In this operation, the metal surface is converted into an oxide or similar metallic compound, giving the part the desired color. The most common colored finishes are used on copper, steel, zinc, and cadmium.

(3) Passivation forms a protective coating on metals, particularly stainless steel, by immersing the part in an acid solution. Stainless steel is passivated to dissolve embedded iron particles and to form a thin oxide film on the surface of the metal. Wastewater generated during chemical conversion coating includes spent solutions and rinses (*i.e.*, both the chemical conversion coating solutions and post-treatment sealant solutions). These solutions commonly are discharged to a treatment system when contaminated with the base metal or other impurities. Rinsing normally follows each process step, except when a sealant dries on the part surface.

Chemical Milling (or Chemical Machining) involves removing metal from a part by controlled chemical attack, or etching, to produce desired shapes and dimensions. In chemical machining, a masking agent typically is applied to cover a portion of the part's surface; the exposed (unmasked) surface is then treated with the chemical machining solution. Wastewater generated during chemical machining includes spent solutions and rinses. Process solutions typically are discharged after becoming contaminated with the base metal. Rinsing normally follows chemical machining.

Chromate Conversion Coating (or Chromating) involves forming a conversion coating (protective coating) on a metal by immersing or spraying the metal with a hexavalent chromium compound solution to produce a hexavalent or trivalent chromium compound coating. This also is known as chromate treatment, and is most often applied to aluminum, zinc, cadmium or magnesium surfaces. Sealant operations using chromium also are included in this unit operation. Chromate solutions include two types: (1) those that deposit substantial chromate films on the substrate metal and are complete treatments themselves, and (2) those that seal or supplement oxide, phosphate, or other types of protective coatings. Wastewater generated during chromate conversion coating includes spent process solutions (*i.e.*, both the chromate conversion coating solutions and post-treatment sealant solutions) and rinses. These solutions typically are discharged to a treatment system when contaminated with the base metal or other impurities. Also, chromium-based solutions, which are typically formulated with hexavalent chromium, lose operating strength when the hexavalent chromium reduces to trivalent chromium during use. Rinsing normally follows each process step, except for sealants that dry on the surface of the part.

Chromium Drag-out Destruction is a unit operation performed following chromium-bearing operations to reduce hexavalent chromium that is ''dragged out'' of the process bath. Parts are dipped in a solution of a chromium-reducing chemical (*e.g.*, sodium metabisulfite) to prevent the hexavalent chromium from contaminating subsequent process baths. This operation typically is performed in a stagnant drag-out rinse tank that contains concentrated chromium-bearing wastewater.

Cyanide Drag-out Destruction involves dipping part in a cyanide oxidation solution (*e.g.*, sodium hypochloride) to prevent cyanide that is ''dragged out'' of a process bath from contaminating subsequent process baths. This operation typically is performed in a stagnant drag-out rinse tank.

Cyaniding Rinse is generated during cyaniding hardening of a part. The part is heated in a molten salt solution containing cyanide. Wastewater is generated when excess cyanide salt solution is removed from the part in rinse water.

Electrochemical Machining is a process in which the part becomes the anode and a shaped cathode is the cutting tool. By pumping electrolyte between the electrodes and applying a current, metal is rapidly but selectively dissolved from the part. Wastewater generated during electrochemical machining includes spent electrolytes and rinses.

Electroless Catalyst Solution involves adding a catalyst just prior to an electroless plating operation to accelerate the plating operation.

Electroless Plating involves applying a metallic coating to a part using a chemical reduction process in the presence of a catalysis. An electric current is not used in this operations. The metal to be plated onto a part typically is held in solution at high concentrations using a chelating agent. This plates all areas of the part to a uniform thickness regardless of the configuration of the part. Also, an electroless-plated surface is dense and virtually nonporous. Copper and nickel electroless plating operations are the most common. Sealant operations (*i.e.*, other than hot water dips) following electroless plating are considered separate unit operations if they include any additives. Wastewater generated during electroless plating includes spent process solutions and rinses. The wastewater contains chelated metals, which require separate preliminary treatment to break the metal chelates prior to conventional chemical precipitation. Rinsing follows most electroless plating processes to remove residual plating solution and prevent contamination of subsequent process baths.

Electrolytic Cleaning involves removing soil, scale, or surface oxides from a part by electrolysis. The part is one of the electrodes and the electrolyte is usually alkaline. Electrolytic alkaline cleaning and electrolytic acid cleaning are the two types of electrolytic cleaning.

(1) Electrolytic alkaline cleaning produces a cleaner surface than do nonelectrolytic methods of alkaline cleaning. This operation uses strong agitation, gas evolution in the solution, and oxidation-reduction reactions that occur during electrolysis. In addition, dirt particles become electrically charged and are repelled from the part surface.

(2) Electrolytic acid cleaning sometimes is used as a final cleaning before electroplating. Sulfuric acid is most frequently used as the electrolyte. As with electrolytic alkaline cleaning, the mechanical scrubbing effect from the evolution of gas enhances the effectiveness of the process.

Wastewater generated during electrolytic cleaning includes spent process solutions and rinses. Electrolytic cleaning solutions become contaminated during use due to the dissolution of the base metal and the introduction of pollutants. The solutions typically are batch discharged for treatment or disposal after they weaken. Rinsing following electrolytic cleaning removes residual cleaner to prevent contamination of subsequent process baths.

Electroplating with Chromium involves producing a chromium metal coating on a surface by electrodeposition. Electroplating provides corrosion protection, wear or erosion resistance, lubricity, electrical conductivity, or decoration. In electroplating, metal ions in acid, alkaline, or neutral solutions are reduced on the cathodic

surfaces of the parts being plated. Metal salts or oxides typically are added to replenish the solutions. Chromium trioxide often is added as a source of chromium. In addition to water and the metal being deposited, electroplating solutions often contain agents that form complexes with the metal being deposited, stabilizers to prevent hydrolysis, buffers for pH control, catalysts to assist in deposition, chemical aids to dissolve anodes, and miscellaneous ingredients that modify the process to attain specific properties. Sealant operations performed after this operation are considered separate unit operations if they include any additives (*i.e.*, other than hot water dips). Wastewater generated during electroplating includes spent process solutions and rinses. Electroplating solutions occasionally become contaminated during use due to the base metal dissolving and the introduction of other pollutants, diminishing the effectiveness of the electroplating solutions diminishes. Spent concentrated solutions typically are treated to remove pollutants and reused, processed in a wastewater treatment system, or disposed of off site. Rinse waters, including some drag-out rinse tank solutions, typically are treated on site.

Electroplating with Cyanide involves producing metal coatings on a surface by electrodeposition using cyanide. Electroplating provides corrosion protection, wear or erosion resistance, electrical conductivity, or decoration. In electroplating, metal ions in acid, alkaline, or neutral solutions are reduced on the cathodic surfaces of the parts being plated. The metal ions in solution typically are replenished by dissolving metal from anodes contained in inert wire or metal baskets. Sealant operations performed after this operation are considered separate unit operations if they include any additives (*i.e.*, any sealant operations other than hot water dips). In addition to water and the metal being deposited, electroplating solutions often contain agents that form complexes with the metal being deposited, stabilizers to prevent hydrolysis, buffers to control pH, catalysts to assist in deposition, chemical aids to dissolve anodes, and miscellaneous ingredients that modify the process to attain specific properties. Cyanide, usually in the form of sodium or potassium cyanide, frequently is used as a complexing agent for zinc, cadmium, copper, and precious metal baths. Wastewater generated during electroplating includes spent process solutions and rinses. Electroplating solutions occasionally become contaminated during use due to dissolution of the base metal and the introduction of other pollutants, diminishing the performance of the electroplating solutions. Spent concentrated solutions typically are treated to remove pollutants and reused, processed in a wastewater treatment system, or disposed of off site. Rinse waters, including some drag-out rinse tank solutions, typically are treated on site.

Electroplating without Chromium or Cyanide involves the production of metal coatings on a surface by electrodeposition, without using chromium or cyanide. Commonly electroplated metals include nickel, copper, tin/lead, gold, and zinc. Electroplating provides corrosion protection, wear or erosion resistance, lubricity, electrical conductivity, or decoration. In electroplating, metal ions in acid, alkaline, or neutral solutions are reduced on the cathodic surfaces of the parts being plated. The metal ions in solution typically are replenished by dissolving metal from anodes contained in inert wire or metal baskets. Sealant operations performed after this operation are considered separate unit operations if they include any additives (*i.e.*, any sealant operations other than hot water dips). In addition to water and the metal being deposited, electroplating solutions often contain agents that form complexes with the metal being deposited, stabilizers to prevent hydrolysis, buffers to control pH, catalysts to assist in deposition, chemical aids to dissolve anodes, and miscellaneous ingredients that modify the process to attain specific properties. Wastewater generated during electroplating without chromium or cyanide includes spent process solutions and rinses. Electroplating solutions occasionally become contaminated during use due to dissolution of the base metal and the introduction of other pollutants, diminishing the effectiveness of the electroplating solutions. Spent concentrated solutions typically are treated for pollutant removal and reused, processed in a wastewater treatment system, or disposed of off site. Rinse waters, including some drag-out rinse tank solutions, typically are treated on site.

Electropolishing involves producing a highly polished surface on a part using reversed electrodeposition in which the anode (part) releases some metal ions into the electrolyte to reduce surface roughness. When current is applied, a polarized film forms on the metal surface, through which metal ions diffuse. In this operation, areas of surface roughness on parts serve as high-current density areas and are dissolved at rates greater than the rates for smoother portions of the metal surface. Metals are electropolished to improve appearance, reflectivity, and corrosion resistance. Base metals processed by electropolishing include aluminum, copper, zinc, low-alloy steel, and stainless steel. Common electrolytes include sodium hydroxide and combinations of sulfuric acid, phosphoric acid, and chromic acid. Wastewater generated during electropolishing includes spent process solutions and rinses. Eventually, the concentration of dissolved metals increases to the point where the process becomes ineffective. Typically, a portion of the bath is decanted and either fresh chemicals are added or the entire solution is discharged to treatment and replaced with fresh chemicals. Rinsing can involve several steps and can include hot immersion or spray rinses.

Galvanizing/Hot Dip Coating involves using various processes to coat an iron or steel surface with zinc. In hot dipping, a base metal is coated by dipping it into a tank that contains a molten metal.

Hot Dip Coating involves applying a metal coating (usually zinc) to the surface of a part by dipping the part in a molten metal bath. Wastewater is generated in this operation when residual metal coating solution is removed from the part in rinse water.

Kerfing uses a tool to remove small amounts of metal from a product surface. Water and synthetic coolants may be used to lubricate the area between the tool and the metal, to maintain the temperature of the cutting tool, and to remove metal fines from the surface of the part. This operation generates oily wastewater that contains metal fines and dust.

Laminating involves applying a material to a substrate using heat and pressure.

Mechanical and Vapor Plating involves applying a metallic coating to a part. For mechanical plating, the part is rotated in a drum containing a water-based solution, glass beads, and metal powder. In vapor plating, a metallic coating is applied by atomizing the metal and applying an electric charge to the part, which causes the atomized (vapor phase) metal to adhere to the part. Wastewater generated in this operation includes spent solutions from the process bath and rinse water. Typically, the wastewater contains high concentrations of the applied metal.

Metallic Fiber Cloth Manufacturing involves weaving thin metallic fibers to create a mesh cloth.

Metal Spraying (Including Water Curtain) involves applying a metallic coating to a part by projecting molten or semimolten metal particles onto a substrate. Coatings can be sprayed from rod or wire stock or from powdered material. The process involves feeding the material (*e.g.*, wire) into a flame where it is melted. The molten stock then is stripped from the end of the wire and atomized by a high-velocity stream of compressed air or other gas that propels the material onto a prepared substrate or part. Metal spraying coatings are used in a wide range of special applications, including: insulating layers in applications such as induction heating coils; electromagnetic interference shielding; thermal barriers for rocket engines; nuclear moderators; films for hot isostatic pressing; and dimensional restoration of worn parts. Metal spraying is sometimes performed in front of a ''water curtain'' (a circulated water stream used to trap overspray) or a dry filter exhaust hood that captures the overspray and fumes. With water curtain systems, water is recirculated from a sump or tank. Wastewater is generated when the sump or tank is discharged periodically. Metal spraying typically is not followed by rinsing.

Painting-Immersion (Including Electrophoretic, ''E-coat'') involves applying an organic coating to a part using processes such autophoretic and electrophoretic painting.

(1) Autophoretic Painting involves applying an organic paint film by electrophoresis when a part is immersed in a suitable aqueous bath.

(2) Electrophoretic Painting is coating a part by making it either anodic or cathodic in a bath that is generally an aqueous emulsion of the organic coating material.

(3) Other Immersion Painting includes all other types of immersion painting such as dip painting.

Water is used in immersion paint operations as a carrier for paint particles and to rinse the part. Aqueous painting solutions

and rinses typically are treated through an ultrafiltration system. The concentrate is returned to the painting solution, and the permeate is reused as rinse water. Sites typically discharge a bleed stream to treatment. The painting solution and rinses are batch discharged periodically to treatment.

Photo Imaging is the process of exposing a photoresist-laden printed wiring board to light to impact the circuitry design to the board. Water is not used in this operation.

Photo Image Developing is an operation in which a water-based solution is used to develop the exposed circuitry in a photoresist-laden printed wiring board. Wastewater generated in this operation includes spent process solution and rinse water.

Photoresist Application is an operation that uses heat and pressure to apply a photoresist coating to a printed wiring board. Water is not used in this operation.

Photoresist Strip involves removing organic photoresist material from a printed wiring board using an acid solution.

Phosphor Deposition is the application of a phosphorescent coating to a part. Wastewater generated in this unit operation includes water used to keep the parts clean and wet while the coating is applied, and rinse water used to remove excess phosphorescent coating from the part.

Physical Vapor Deposition involves physically removing a material from a source through evaporation or sputtering, using the energy of the vapor particles in a vacuum or partial vacuum to transport the removed material, and condensing the removed material as a film onto the surface of a part or other substrate.

Plasma Arc Machining involves removing material or shaping a part by a high-velocity jet of high-temperature, ionized gas. A gas (nitrogen, argon, or hydrogen) is passed through an electric arc, causing the gas to become ionized, and heated to temperatures exceeding 16,650 °C (30,000 °F). The relatively narrow plasma jet melts and displaces the material in its path. Because plasma arc machining does not depend on a chemical reaction between the gas and the part, and because plasma temperatures are extremely high, the process can be used on almost any metal, including those that are resistant to oxygen-fuel gas cutting. The method is used mainly for profile cutting of stainless steel and aluminum alloys. Although plasma arc machining typically is a dry process, water is used for water injection plasma arc torches. In these cases, a constricted swirling flow of water surrounds the cutting arc. This operations also may be performed immersed in a water bath. In both cases, water is used to stabilize the arc, to cool the part, and to contain smoke and fumes.

Plastic Wire Extrusion involves applying a plastic material to a metal wire through an extrusion process.

Salt Bath Descaling involves removing surface oxides or scale from a part by immersing the part in a molten salt bath or hot salt solution. Salt bath descaling solutions can contain molten salts, caustic soda, sodium hydride, and chemical additives. Molten salt baths are used in a salt bath-water quench-acid dip sequence to remove oxides from stainless steel and other corrosion-resistant alloys. In this process, the part typically is immersed in the molten salt, quenched with water, and then dipped in acid. Oxidizing, reducing, or electrolytic salt baths can be used depending on the oxide to be removed. Wastewater generated during salt bath descaling includes spent process solutions, quenches, and rinses.

Shot Tower—Lead Shot Manufacturing involves dropping molten lead from a platform on the top of a tower through a sieve-like device and into a vat of cold water.

Soldering involves joining metals by inserting a thin (capillary thickness) layer of nonferrous filler metal into the space between them. Bonding results from the intimate contact produced by the metallic bond formed between the substrate metal and the solder alloy. The term soldering is used where the melting temperature of the filler is below 425 °C (800 °F). Some soldering operations use a solder flux, which is an aqueous or nonaqueous material used to dissolve, remove, or prevent the formation of surface oxides on the part. Except for the use of aqueous fluxes, soldering typically is a dry operation; however, a quench or rinse sometimes follows soldering to cool the part or remove excess flux or other foreign material from its surface. Recent developments in soldering technology have focused on fluxless solders and fluxes that can be cleaned off with water.

Solder Flux Cleaning involves removing residual solder flux from a printed circuit board using either an alkaline or alcohol cleaning solution.

Solder Fusing involves coating a tin-lead plated circuit board with a solder flux and then passing the board through a hot oil. The hot oil fuses the tin-lead to the board and creates a solder-like finish on the board.

Solder Masking involves applying a resistive coating to certain areas of a circuit board to protect the areas during subsequent processing.

Sputtering is a vacuum evaporation process in which portions of a coating material are physically removed from a substrate and deposited a thin film onto a different substrate.

Stripping (Paint) involves removing a paint (or other organic) coating from a metal basis material. Stripping commonly is performed as part of the manufacturing process to recover parts that have been improperly coated or as part of maintenance and rebuilding to restore parts to a usable condition. Organic coatings (including paint) are stripped using thermal, mechanical, and chemical means. Thermal methods include burn-off ovens, fluidized beds of sand, and molten salt baths. Mechanical methods include scraping and abrasive blasting (as defined in ''Abrasive Blasting'' in appendix B of this part). Chemical paint strippers include alkali solutions, acid solutions, and solvents (*e.g.*, methylene chloride). Wastewater generated during organic coating stripping includes process solutions (limited mostly to chemical paint strippers and rinses).

Stripping (Metallic Coating) involves removing a metallic coating from a metal basis material. Stripping is commonly part of the manufacturing process to recover parts that have been improperly coated or as part of maintenance and rebuilding to restore parts to a usable condition. Metallic coating stripping most often uses chemical baths, although mechanical means (*e.g.*, grinding, abrasive blasting) also are used. Chemical stripping frequently is performed as an aqueous electrolytic process. Wastewater generated during metallic coating stripping includes process solutions and rinses. Stripping solutions become contaminated from dissolution of the base metal. Typically, the entire solution is discharged to treatment. Rinsing is used to remove the corrosive film remaining on the parts.

Thermal Infusion uses heat to infuse metal powder or dust onto the surface of a part. Typically, thermal infusion is a dry operation. In some cases, however, water may be used to remove excess metal powder, metal dust, or molten metal.

Ultrasonic Machining involves forcing an abrasive liquid between a vibrating tool and a part. Particles in the abrasive liquid strike the part, removing any microscopic flakes on the part.

Vacuum Impregnation is used to reduce the porosity of the part. A filler material (usually organic) is applied to the surface of the part and polymerized under pressure and heat. Wastewater is generated in this unit operation when rinse water is used to remove residual organic coating from the part.

Vacuum Plating involves applying a thin layer of metal oxide onto a part using molten metal in a vacuum chamber.

Water Shedder involves applying a dilute water-based chemical compound to a part to accelerate drying. This operation typically is used to prevent a part from streaking when excess water remains on the part.

Wet Air Pollution Control involves using water to remove chemicals, fumes, or dusts that are entrained in air streams exhausted from process tanks or production areas. Most frequently, wet air pollution control devices are used with electroplating, cleaning, and coating processes. A common type of wet air pollution control is the wet packed scrubber consisting of a spray chamber that is filled with packing material. Water is continuously sprayed onto the packing and the air stream is pulled through the packing by a fan. Pollutants in the air stream are absorbed by the water droplets and the air is released to the atmosphere. A single scrubber often serves numerous process tanks; however, the air streams typically are segregated by source into chromium, cyanide, and acid/alkaline sources. Wet air pollution control can be divided into several suboperations, including:

(1) Wet Air Pollution Control for Acid Alkaline Baths;

(2) Wet Air Pollution Control for Cyanide Baths;

(3) Wet Air Pollution Control for Chromium-Bearing Baths; and

(4) Wet Air Pollution Control for Fumes and Dusts.

Wire Galvanizing Flux involves using flux to remove rust and oxide from the surface of steel wire prior to galvanizing. This provides

long-term corrosion protection for the steel wire.

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Federal Register

Tuesday,
May 13, 2003

Part III

Department of Agriculture

Forest Service

36 CFR Part 251

Special Uses; Managing Recreation Residences and Assessing Fees Under Cabin User Fee Fairness Act; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB83

Special Uses; Managing Recreation Residences and Assessing Fees Under Cabin User Fee Fairness Act

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Cabin User Fee Fairness Act of 2000 directs the Forest Service to promulgate regulations and adopt policies for carrying out provisions of the act. Accordingly, the Forest Service is proposing changes to its special uses regulations and also to the related agency directives published elsewhere in this issue of the **Federal Register**. The proposed rule and agency directives set out requirements and provide direction to agency personnel for managing recreation residence uses and assessing fees for those uses of National Forest System lands pursuant to the act. Public comment is invited and will be considered in the development of the final rule and directives.

DATES: Comments must be received in writing by August 11, 2003.

ADDRESSES: Send written comments to Forest Service, USDA, Attn: Director of Lands, Mail Stop 1104, Washington, DC 20250–1104; by electronic mail to the World Wide Web/Internet site at *http://www2.srs.fs.fed.us/cuffa/cuffa.html* or by fax to (202) 205–1604. If comments are sent by electronic mail or fax, the public is requested not to send duplicate written comments via regular mail. In addition, only one response is required to address provisions contained in this proposed rule and the proposed directives published elsewhere in this part of today's **Federal Register**. Please confine written comments to issues pertinent to the proposed rule and directives; explain the reasons for any recommended changes; and where possible, reference the specific section or paragraph being addressed. Those responding to the proposed rule, directives, and appraisal guidelines may want to review the provisions of the Cabin User Fee Fairness Act of 2000 before formulating their response. A copy of the act may be viewed and downloaded from the World Wide Web/Internet site previously listed. The Forest Service may not include in the administrative record for the proposed rule and proposed directives those comments it receives after the comment period closes (see **DATES**) or comments delivered to an address other than those listed in this **ADDRESSES** section.

All comments, including the names, street addresses, and other contact information about respondents, will be available for public review at the office of the Director, Lands Staff, Forest Service, USDA, 4th Floor South, Sidney R. Yates Federal Building, 1400 Independence Ave., SW., Washington, DC, during regular business hours (8:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Those wishing to inspect comments are encouraged to call ahead (202) 205–1256 or (202) 205–1064, to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff (202) 205–1256, Forest Service, USDA.

SUPPLEMENTARY INFORMATION:

Table of Contents

1. Background

On August 16, 1988 (53 FR 30924), the Forest Service adopted a policy that set forth procedures for administering term special use permits that authorize privately owned recreation residences on National Forest System (NFS) lands. The 1988 policy included direction concerning the tenure and renewal of recreation residence term special use permits, and described procedures to be followed when a recreation residence site was needed for a higher public purpose. The 1988 policy also established a new procedure for assessing fair market value fees for this type of use and occupancy. In the 1988 policy the Forest Service designated as ''base fees'' those annual fees for recreation residence special uses permits that had previously been established during the years 1978 through 1982. Those base fees were determined as a result of appraisals of the fee simple fair market value of lots that were completed during that time period. The year of the appraisal during the years 1978 through 1982 served as ''year 1'' in a 20-year appraisal cycle in the 1988 policy.

That policy was appealed to the Secretary of Agriculture on September 15, 1988. In general, the appellants alleged that certain aspects of the policy were flawed, in that they exceeded limitations in the statute authorizing recreation residence uses of the National Forests. In a decision dated February 15, 1989, the Assistant Secretary of Agriculture for Natural Resources and Environment remanded the 1988 policy to the Forest Service for restudy and reformulation, and stayed the implementation of those specific provisions in the policy that were the subject of the appeal. None of the appeal or remand issues involved provisions in the 1988 policy concerning the appraisals of recreation residence lots, nor the determination and assessment of land use fees generally. Rather, the remand directed the agency to reconsider: (1) Nonrenewal provisions in recreation residence special use permits that would be applied when the agency determined a need to convert the use of a recreation residence site to a higher, or alternative, public purpose; (2) the policy's provisions requiring an automatic permit renewal 10 years prior to expiration (unless procedures for nonrenewal had been established); (3) provisions requiring the offering of an in-lieu lot to those permit holders who received nonrenewal notices pursuant to the agency's finding to convert the use of a recreation residence site to some alternative public purpose; and (4) provisions weighted against consideration of commercial uses for sites when nonrenewal of the recreation residence use was contemplated.

A final revised policy for recreation residences was adopted on June 2, 1994 (59 FR 28713). It revised the 1988 policy with new provisions identified in the appeal and remand concerning tenure, and clarified policy for determining the annual fee for recreation residences. However, those provisions that were revised and clarified in 1994 pertained only to annual fees for those permits affected by notices of nonrenewal for an alternative public purpose.

As previously stated, the 1988 policy established base fees pursuant to recreation residence lot appraisals conducted during the years 1978 through 1982. Those base fee amounts were then indexed annually, using the annualized change in the economic indexing factor known as the Implicit Price Deflator-Gross National Product (IPD–GNP) as provided in the 1988 policy. The 1988 policy also established a 20-year appraisal cycle for keeping recreation residence fees current with changes in fair market value.

In accordance with the provisions of the 1988 and 1994 policies, the Forest Service began to appraise recreation residence tracts in 1996, which was year 18 of the 20-year appraisal cycle for those lots appraised in 1978. Appraisals completed in 1997 revealed varying degrees of increases in the fair market

value of recreation residence lots since they were last appraised in the late 1970's and early 1980's. In some locations and markets the increase in value was dramatic. Because annual land use fees are calculated on the basis of 5 percent of the fee simple value of each lot, increases in the appraised fee simple values of some lots exceeded the cumulative effect of 18 to 20 years of annual IPD–GNP indexing of fees, which resulted in corresponding increases in land use fees. Some of the more dramatic fee increases as a result of new appraisals were of significant concern to recreation residence permit holders, and to State and national associations that represent them. In response, recreation residence permit holders and associations of holders began to contact their Congressional representatives, requesting relief from the increased fees.

Congress initially responded to these concerns on November 14, 1997, in the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1998, Public Law 105–83 (Pub. L. 105–83). Section 343 of this act provided for a three-year phase-in of recreation residence fee increases when a new appraisal of a recreation residence lot results in fees that exceeded 100 percent of the previous land use fees.

In fiscal year 1999, Congress responded to the concerns of recreation residence permit holders on the Sawtooth National Forest in Idaho by directing the Forest Service not to increase recreation residence fees on the Sawtooth National Forest in fiscal year 1999 by more than 25 percent of the fee paid during the prior fiscal year.

In fiscal year 2000, Congress provided additional relief to recreation residence permit holders in section 342 of Public Law 106–113 (Consolidated Appropriations for Fiscal Year Ending September 30, 2000); which directed that recreation residence permit fees assessed during fiscal year 2000 could not exceed the fiscal year 1999 fee amount by more than $2000.

Congress further addressed concerns with fee assessments for recreation residence uses with the October 12, 2000, passage of the Cabin User Fee Fairness Act of 2000 (CUFFA). One of the primary purposes of CUFFA is to establish a consistent and fair process for appraising the fee simple value of recreation residence lots on NFS lands.

2. Major Provisions of the Cabin User Fee Fairness Act of 2000 (CUFFA)

The Cabin User Fee Fairness Act of 2000 (CUFFA) directs the Secretary of Agriculture to promulgate regulations and policies to implement the provisions of the act within two years of its passage. The major provisions of CUFFA include: (1) Establishment of a base annual fee for recreation residence special use permits that is 5 percent of the appraised fee simple value of the lot; (2) direction for the establishment of new guidelines for conducting appraisals of recreation residence lots; (3) an appraisal cycle shortened from the current 20 years to 10 years; and (4) the right of appeal and judicial review of a base cabin user fee determination.

Section 608 of CUFFA provides for annual adjustments to recreation residence fees based on changes to the Index of Agricultural Land Prices, published by the Department of Agriculture. Currently, the Forest Service adjusts annual fees for recreation residence using the 2nd quarter to 2nd quarter change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP) with a 10 percent increase cap in any one-year billing period. During the transition period identified in section 614 of CUFFA, the Forest Service is continuing to use the IPD–GDP as the means for annually indexing fees. This direction was provided to agency managers on February 20, 2003, in interim directive 2709.11–2003–1, issued to the Forest Service Handbook (FSH) 2709.11, chapter 30 (68 FR 8197). The Forest Service shall, however, limit annual increases using the IPD–GDP to 5 percent in any one year during the transition period as provided in section 608(d) of CUFFA. When the transition period ends, the Forest Service will use the Index of Agricultural Land Prices to index annual fees as provided in section 608 of CUFFA.

Section 606(a)(3) of CUFFA directs the Secretary to contract with a professional appraisal organization to develop appraisal guidelines for determining fees for recreation residences. The Forest Service contracted with The Appraisal Foundation (TAF) to assist in the development and review of the proposed appraisal guidelines. TAF is the single authority in the United States for development and interpretation of appraisal standards, such as those referenced in CUFFA. In addition, TAF is the only Congressionally recognized appraisal organization responsible for developing and interpreting the Uniform Standards of Professional Appraisal Practice (USPAP) as provided by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

TAF assisted the Forest Service in the development of the proposed appraisal guidelines. In its report dated October 8, 2002, TAF also documented that the proposed appraisal guidelines the Forest Service developed are in conformance with section 606 of CUFFA by stating: ''* * * they (draft appraisal guidelines) follow exactly the directions in the act.'' TAF did recommend minor, mostly editorial changes to the draft of the proposed appraisal guidelines. The revised draft appraisal guidelines are found in the proposed directives to Forest Service Handbook (FSH) 5409.12, Appraisal Handbook, section 6.9, exhibit 06, published elsewhere in this part of today's **Federal Register.**

Section 611 of CUFFA provides for the right of appeal and judicial review for recreation residence permit holders. The Department has reviewed this requirement and has determined that current regulations at Title 36, Code of Federal Regulations, part 251, Land Uses, subpart C, Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands (36 CFR part 251, subpart C) provide all holders of recreation residence term permits the right to appeal a written decision by an authorized officer regarding the issuance, approval, and administration of their permits. The authorized officer's implementation of a new base fee, pursuant to provisions outlined in the proposed rule and directives published elsewhere in this part of today's **Federal Register,** constitutes a written decision subject to these appeal regulations. Therefore, existing regulations at 36 CFR part 251, subpart C, already provide the right of appeal identified in section 611 of CUFFA, and the Department is not proposing any new or amended appeal regulations for implementing that section of CUFFA.

Section 614 of CUFFA provides for a transition period during which the recreation residence fees in place on September 30, 1995, could not be increased by more than $3,000 from the amount of the annual fee in effect on October 1, 1996, excluding annual indexing. The transition period ends for a recreation residence permit holder when a base fee for their recreation residence is established through guidelines contained in final regulations, directives, and appraisal guidelines developed pursuant to CUFFA. The Forest Service issued an interim directive implementing these transition provisions for fee determinations on February, 20, 2003 (68 FR 8197) (ID 2709.11–2003–1 to FSH 2709.11).

Pursuant to the provisions of CUFFA previously outlined, the Forest Service is proposing revisions to its special uses regulations at 36 CFR part 251, subpart B, as set out in this notice, and also is

proposing new appraisal guidelines and revisions to administrative procedures set out in proposed directives published elsewhere in this part of today's **Federal Register.**

3. Section-by-Section Explanation of Proposed Revisions to 36 CFR Part 251, Subpart B

Section 251.51—Definitions. This section of the current regulation defines many of the terms and phrases used in subpart B. The proposed rule would add a definition for a recreation residence lot as described in section 604 of CUFFA. Consistent with the act, a recreation residence lot includes all National Forest System (NFS) land on which a cabin owner is authorized to build, use, occupy, and maintain a cabin and related improvements. Therefore, a recreation residence lot is not necessarily confined to the plotted boundaries as shown on a tract map, but may include all of the area occupied by the recreation residence and its related improvements.

Section 251.57—Rental Fees. This section of the current regulation describes how fees for special use authorizations are determined. Proposed paragraph (a)(3) would provide that the base fee for recreation residences would be established by appraisal or other sound business management principles pursuant to the provisions in CUFFA. Proposed paragraph (a)(3) would also state that the base cabin user fee is established as being 5 percent of the market value of the recreation residence lot. Proposed paragraph (i) would require that permits and term permits authorizing recreation residence uses state that the Forest Service shall recalculate the base cabin user fee at least once every 10 years by use an appraisal or other sound business management principles to calculate that fee as provided for in paragraph (a)(3).

4. Regulatory Requirements

Environmental Impact

These proposed revisions establish administrative procedures for determining market value for recreation residences on National Forest System lands. Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This proposed rule would not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule would not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, this proposed rule would not alter the budgetary impacts of entitlements, grants, or loan programs or the rights and obligations of recipients of such programs.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed rule does not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The agency has not identified any State or local laws or regulations that are in conflict with this proposed rule or that would impede full implementation of the proposed rule. Nonetheless, in the event that such a conflict were to be identified, the proposed rule, if implemented, would preempt the State and local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this proposed rule; and (2) the Department would not require the use of administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this proposed rule under the requirements of Executive Order 13132 on federalism, and has made an assessment that the proposed rule conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this proposed rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

Energy Effects

This proposed rule has been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply.'' It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 U.S.C. part 1320 that are not already required by law or not already approved for use. Any information collected from the public as a result of this action has been approved by the Office of Management and Budget under control number 0596–0082. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, and Water resources.

For the reasons set forth in the preamble, the Forest Service proposes to amend part 251 of title 36 of the Code of Federal Regulations as follows:

PART 251—LAND USES

Subpart B—Special Uses

1. The authority citation for part 251 is revised to read as follows:

Authority: 16 U.S.C. 472, 479b, 551, 1134, 3210, 6201–13; 30 U.S.C. 1740, 1761–1771.

2. In § 251.51 add a definition for ''recreation residence lot'' in the appropriate alphabetical order to read as follows:

§ 251.51 Definitions

* * * * *

Recreation Residence Lot—a parcel of National Forest System land on which a holder is authorized to build, use, occupy, and maintain a recreation residence and related improvements. A recreation residence lot is considered to be in its natural, native state at the time when the Forest Service first permitted its use for a recreation residence. A recreation residence lot is not necessarily confined to the platted boundaries shown on a tract map or permit area map. A recreation residence lot includes the physical area of all National Forest System land being used or occupied by a recreation residence permit holder, including, but not limited to, land being occupied by ancillary uses such as septic systems, water systems, boat houses and docks, major vegetative modifications, and so forth.

* * * * *

3. In § 251.57 add new paragraphs (a)(3) and (i) to read as follows:

§ 251.57 Rental fees

(a) * * *

(3) A base cabin user fee for a recreation residence use shall be 5 percent of the market value of the recreation residence lot, established by an appraisal or other sound business management principles conducted in accordance with the Act of October 12, 2000 (16 U.S.C. 6201–13).

* * * * *

(i) Each permit or term permit for a recreation residence use shall include a clause stating that the Forest Service shall recalculate the base cabin user fee at least every 10 years and shall use an appraisal or other sound business management principles to recalculate that fee as provided in paragraph (a)(3) of this section.

Dated: May 3, 2003.

Dale N. Bosworth,

Chief.

[FR Doc. 03–11694 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB83

Procedures for Appraising Recreation Residence Lots and for Managing Recreation Residence Uses Under Cabin User Fee Fairness Act

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed directives; request for comment.

SUMMARY: In conjunction with a proposed rule published elsewhere in this part of today's **Federal Register**, the Forest Service is proposing changes to its directives for managing recreation residence special use permits and for determining land use fees for recreation residences as required by the Cabin User Fee Fairness Act of 2000. Guidance to forest officers in the administration of recreation residences and the determination of land use fees is issued in the Forest Service Manual (FSM) Title 2300, Recreation, Wilderness, and Related Resource Management; FSM Title 2700, Special Uses Management; Forest Service Handbook (FSH) 2709.11, Special Uses Handbook; and FSH 5409.12, Appraisal Handbook. Numerous revisions to these directives are necessary to address the changes in administering and determining fees for recreation residence lots pursuant to the act. Comments received in response to this notice will be considered in development of the final directives and final rule.

DATES: Comments must be received in writing by August 11, 2003.

ADDRESSES: Send written comments to Forest Service, USDA, Attn: Director of Lands, Mail Stop 1104, Washington, DC 20250–1140; by electronic mail to the World Wide Web/Internet site at *http://www2.srs.fs.fed.us/cuffa/cuffa.html* or by fax to (202) 205–1604. If comments are sent by electronic mail or by fax, the public is requested not to send duplicate written comments via regular mail. Only one response is required to address provisions contained in these proposed directives and in the proposed rule published elsewhere in this part of today's **Federal Register**. Please confine written comments to issues pertinent to the proposed directives and proposed rule; explain the reasons for any recommended changes; and, where possible, reference the specific section or paragraph being addressed. Those responding to the proposed rule, directives, and appraisal guidelines may want to review the provisions of the Cabin User Fee Fairness Act of 2000 before formulating their response. A copy of the act may be viewed and downloaded from the World Wide Web/Internet site previously listed. The Forest Service may not include in the administrative record for the proposed directives and the proposed rule those comments it receives after the comment period closes (see **DATES**) or comments delivered to an address other than those listed in this **ADDRESSES** section.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on these proposed directives in the Office of the Director, Lands Staff, Forest Service, USDA, 4th Floor-South, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, between the hours of 8:30 a.m. to 4 p.m. on business days. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1248 or (202) 205–1064 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256, Forest Service, USDA.

SUPPLEMENTARY INFORMATION:

Table of Contents

1. Background

An analysis of the history and development of policy and regulations

for the administration of recreation residences is found in the notice of proposed rulemaking to Title 36, Code of Federal Regulations, part 251, subpart B (36 CFR part 251, subpart B) published elsewhere in this part of today's **Federal Register**.

Most of the changes required by the Cabin User Fee Fairness Act of 2000 (CUFFA) affect current recreation residence policy contained in the Forest Service Manual (FSM) and Forest Service Handbook (FSH) directives. Accordingly, the changes to recreation residence management identified in CUFFA will be implemented through revisions to the FSM and FSH pursuant to CUFFA. Table I at the end of this notice has been prepared as an aid to understanding the directive changes being proposed. Table I displays the recreation residence policy provision, its reference to the appropriate section of CUFFA, and a section-by-section comparison of the current and the proposed policy provisions.

2. Regulatory Certifications

Environmental Impact

These proposed directives revise the administrative procedures for determining market value for recreation residences on National Forest System lands. Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that these proposed directives fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

These proposed directives have been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant action. The proposed directives would not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. The proposed directives would not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, these proposed directives would not alter the budgetary impacts of entitlements, grants, or loan programs or the rights and obligations of recipients of such programs.

No Takings Implications

These proposed directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed directives do not pose the risk of a taking of constitutionally protected private property.

Civil Justice Reform

These proposed directives have been reviewed under Executive Order 12988, Civil Justice Reform. The agency has not identified any State or local laws or regulations that are in conflict with these proposed directives or that would impede full implementation of the proposed directives. Nonetheless, in the event that such a conflict were to be identified, the proposed directives, if implemented, would preempt the State and local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to these proposed directives; and (2) the Department would not require the use of administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of these proposed directives on State, local, and tribal governments and the private sector. These proposed directives would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered these proposed directives under the requirements of Executive Order 13132 on federalism, and has made an assessment that the proposed directives conform with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, these proposed directives do not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

Energy Effects

These proposed directives have been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply.'' It has been determined that these proposed directives do not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

These proposed directives do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 U.S.C. part 1320 that are not already required by law or not already approved for use. Any information collection requested as a result of these directives have been approved by the Office of Management and Budget under control number 0596–0082. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: April 3, 2003.

Dale N. Bosworth,

Chief.

3. Proposed Revisions to Recreation Residence Directives

Note: The Forest Service organizes its Directive System by alphanumeric codes and subject headings. Only those sections of the Forest Service Manual and Handbook that are the subject of this notice are set out here. The intended audience for this direction is Forest Service employees charged with issuing and administering recreation residence special use authorizations.

Forest Service Manual

Chapter 2340—Privately Provided Recreation Opportunities

2340.05—Definitions

* * * * *

Caretaker Cabin. A residence occupying a lot within a recreation residence tract that is being used to provide caretaker services and security to the recreation residences within that tract.

* * * * *

2347.1—Recreation Residences

(For further direction, *see* FSM 2721.23 and FSH 2709.11.) Recreation residences are a valid use of National Forest System lands. They provide a unique recreation experience to a large number of owners of recreation residences, their families, and guests. To the maximum extent practicable, the recreation residence program shall be managed to preserve the opportunity it provides for individual and family-oriented recreation. It is Forest Service policy to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of recreation residences.

* * * * *

2347.12—Caretaker Cabins

2347.12a—Authorization

Authorize caretaker cabin use of a recreation residence lot with an annual permit, Form FS–2700–4, under the Act of June 4, 1897. Require applicants who currently have a recreation residence term special use permit to request that the Forest Service revoke their recreation residence permit, as a condition for qualifying for a caretaker cabin authorization. A caretaker cabin may be owned by a tract association, and the authorization may be issued in the name of the head of that association.

2347.12b—Caretaker Cabin Use

The need for a caretaker cabin rarely can be justified where yearlong occupancy is already authorized in the tract. The Forest Supervisor may authorize a caretaker cabin in limited cases where it is demonstrated that caretaker services are needed for the security of a recreation residence tract and alternative security measures are not feasible or reasonably available. The annual fees for a caretaker cabin special use permit shall not be greater than the fee charged for the use of the lot as a recreation residence, as determined by the fee for a typical lot representative of the group of lots that includes the lot upon which the caretaker cabin use is authorized.

* * * * *

Chapter 2720—Special Uses Administration

* * * * *

2721.23—Recreation Residences

* * * * *

2721.23d—Fee Determination

1. Use market value as determined by appraisal in determining the base annual fees for recreation residence lots. Determine a new base fee at 10-year intervals.

Forest Service Handbook (FSH) 2709.11—Special Uses Handbook

Chapter 30—Fee Determination

* * * * *

33—Recreation Residence Lot Fees

Recreation residence lot fees shall be assessed and paid annually.

33.05—Definitions

Cabin. A privately owned structure that is authorized to occupy National Forest System land for use as a recreation residence.

Market Value. The amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

Natural, Native State. The condition of a lot or site, free of any improvements, at the time at which the lot or site was first authorized for recreation residence use by the Forest Service.

Recreation Residence. A privately owned, noncommercial residence, and its auxiliary buildings and improvements, located upon National Forest System lands and authorized by a recreation residence term special use permit. A recreation residence is maintained by the permit holder for personal, family, and guest use and enjoyment. A recreation residence shall not serve as a permanent residence.

Recreation residence lot. (For this definition, *see* 36 CFR 251.51.)

Simple Majority. More than 50 percent.

Term Permit. (For this definition, see 36 CFR 251.51 and FSM 2705.)

Tract. An established location within a National Forest containing one or more cabins authorized in accordance with the recreation residence program.

Typical Lot. A recreation residence lot in a tract that is selected for appraisal purposes as being representative of value characteristics similar to other recreation residence lots within the tract. All recreation residence lots represented by a typical lot shall be characterized as a group for appraisal purposes. A tract may have one or more groups of lots, with each group represented by a typical lot. A typical lot may be the only recreation residence lot in a group, and may be appraised to represent only itself, when it has unique value characteristics unlike any other recreation residence lot in a tract.

33.1—Base Fees and Annual Adjustments

33.11—Establishing New Base Fee

The base fee for a recreation residence special use permit shall be equal to 5 percent of the market value of the recreation residence lot as determined by appraisal. The base fee shall be recalculated at least once every 10 years.

The authorized officer shall notify the holder in writing at least one (1) year in advance of implementation that a new base fee has been determined by appraisal conducted in accordance with procedures contained in section 33.4 of this Handbook. If a second appraisal, secured by the holder (sec. 33.7) and approved by the agency, prompts the authorized officer to reconsider the new base fee amount, the revision to the base fee may be implemented at any time after the end of the one-year period following the initial notification.

The date of a billing for payment of a new base fee, or the date of a billing for the first payment of a phase-in amount (sec. 33.12) of a new base fee, shall constitute the date of implementation of the new base fee.

33.12—Phase-In of Base Fee

Require the holder to pay the full amount of a new base fee if that new base fee results in an increase of 100 percent or less from the amount of the most recent annual fee assessed the holder.

When the new base fee is greater than a 100 percent increase from the amount of the most recent annual fee assessed the holder, implement the new base fee increase in three (3) equal increments over a 3-year period. Annual adjustments (sec. 33.13) shall be included in the calculation of fees that are incrementally phased-in over the 3-year period.

The following example illustrates the manner in which a new base fee would be phased in when the new base fee results in an increase of more than 100 percent from the most recent annual fee assessed the holder:

2002 Fee amount	2003 New base fee	Increase
$700	$1,600	[1] $900

2003 Phase-in Fee: $700 (2002 fee) + $300 (⅓ of fee increase > 100%) = $1,000

2004 Phase-in Fee: $1,000 (2003 fee) + $300 (⅓ of fee increase > 100%) × 1.03* (annual IPD–GDP increase of 3%) = $1,339

2002 Fee amount	2003 New base fee	Increase
2005 Phase-in Fee: $1,339 (2004 fee) + $300 (⅓ of fee increase > 100%) × 1.03* (annual IPD–GDP increase of 3%) = $1,688		
2006 Phase-in Fee $1,688 (2005 fee) × 1.03* (annual IPD–GDP increase of 3%) = $1,739		

[1] >100% increase.

*3% annual IPD–GDP adjustment is used for illustrative purposes only. The actual annual IPD–GDP rate would be used for each of the phase-in amounts in years 2004 through 2006.

33.13—Annual Adjustment of Recreation Residence Fee

Recreation residence fees shall be adjusted annually using the 2nd quarter to 2nd quarter change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP).

An annual adjustment to the base fee shall be no more than 5 percent in any single year. When the annual change to the IPD–GDP results in an annual adjustment of more than 5 percent, apply the amount of the adjustment in excess of 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

The following two examples illustrate how annual fees are adjusted in years during which the annual change in the IPD–GDP index exceeds 5 percent:

Example 1: Only 1 year in which the IPD–GDP adjustment exceeds 5%.

2004 Fee = $700
2005 IPD–GDP adjustment = 7%* ($700 × .07 = $49)
Maximum adjustment/year = 5% ($35)
2005 carryover adjustment = 2% ($14)
2005 Fee = $700 (2004 fee) × .05 (max. adj/yr.) = $735
2006 IPD–GDP adjustment = 3%*
Carryover adjustment from 2005 = $14
2006 Fee = $735 (2005 fee) + $14 (2005 carryover) × 1.03 = $771

Example 2: Multiple-year IPD–GDP adjustments exceeding 5%.

2004 Fee = $700
2005 IPD–GDP adjustment = 7%* ($700 × .07 = $49)
Maximum adjustment/year = 5% ($35)
2005 carryover adjustment = 2% ($14)
2005 Fee = $700 (2004 fee) × 1.05 (max. adj/yr.) = $735
2006 IPD–GDP adjustment = 7%* ($735 × .07 = $51)
Maximum adjustment/year = 5% ($37)
2006 carryover adjustment = 2% ($14)
Total carryover (2005 & 2006) = $28
2006 Fee = $735 (2005 fee) × 1.05 (max. adj/yr.) = $772
2007 IPD–GDP adjustment = 3%* (<max.adj/yr.)
Total 2006 & 2007 carryover = $28
2007 Fee = $772 (2006 fee) + $28 (2005 & 2006 carryover) × 1.03 = $824

(*Annual IPD–GDP adjustments used are for illustrative purposes only)

33.2—Fees When Determination Is Made To Place Recreation Residence on Tenure

A recreation residence use is placed on ''tenure'' when the authorized officer notifies the holder of the officer's decision to discontinue the use of the lot for recreation residence purposes and to convert the use of the recreation residence lot to some alternative public purpose. When a decision is made to discontinue the recreation use, the authorized officer shall provide the holder a minimum of 10 years notice prior to the date of converting the use and occupancy to an alternative public purpose. If the holder's 20-year term special use permit expires during that 10-year period, a new annual special use permit shall be issued with an expiration date that coincides with the specified date for converting the recreation residence lot to an alternative public purpose.

When a recreation residence use had been put on tenure, the fee for the tenth year prior to the date of converting the recreation residence use to an alternative public use becomes the base fee for the remaining life of the use. The fee for each year during the last ten years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion. For example, charge a holder with nine years remaining, 90 percent of the base fee; with eight years, 80 percent; and so forth. Do not apply annual adjustments to fees when a recreation residence has been put on tenure notice.

Use the following schedule to calculate the holder's fee during the 10-year period:

Years remaining prior to date of conversion	Percent of base fee to charge
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
1	10

Use one of the following fee determination procedures when a review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the determined date of conversion:

1. If a new 20-year term permit is issued, recover the amount of fees forgone while the previous permit was under notice that the recreation residence lot would be converted to an alternative public purpose. Collect this amount evenly over a 10-year period in addition to the annual fee due under the new permit. The obligation runs with the recreation residence lot and shall be charged to any subsequent purchaser of the recreation residence. The annual fee under the newly issued 20-year permit shall be the annually-indexed fee computed as though no limit on tenure had existed, plus the amount as specified in this paragraph until paid in full.

2. Do not recover past fees when a 20-year term permit is not issued and the occupancy of the recreation residence lot will be authorized for less than 10 years past the originally identified date of conversion. Determine the fee for a new permit in these situations by computing the fee as if notice that a new permit would not be issued had not been given, reduced by the appropriate percentage for the number of years of the extension. For example, a new permit with a 6-year tenure period results in a fee equal to 60 percent of the base fee.

3. When a 20-year term permit is not issued, and the occupancy of the subject recreation residence lot will be allowed to continue for more than 10 years, but less than 20 years, recover fees as outlined in the preceding paragraph 1, computed for the most recent 10-year period in which the term of the permit was limited.

33.3—Fee When Recreation Residence Use Is Terminated or Revoked as Result of Acts of God or Other Catastrophic Events

When the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the fee obligation of the recreation residence owner shall terminate effective on the date of the occurrence of the act or event.

A prorated portion of the annual fee, reflecting the remainder of the current billing period from the date of the occurrence of the act or event, shall be refunded to the holder. In the event that the holder is authorized to occupy an in-lieu lot (sec. 41.23d), the refund amount may instead be credited to the annual fee identified in a new permit for the in-lieu lot.

33.4—Establishing the Market Value of Recreation Residence Lot

The market value of a recreation residence lot shall be established by appraisal (FSH 5409.12, ch. 6).

1. Appraisals shall be conducted and prepared by either a contract or staff appraiser who is licensed to practice in the State within which the recreation residence lot(s) to be appraised are located. Select private contract or Forest Service staff who have adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence for the appraisal assignment. Require appraisers to sign an Assignment Agreement (FSH 5409.12, sec. 6.9, ex. 07). The appraisal must evaluate the market value of the fee simple estate of the National Forest System land underlying the typical lot or lots in a natural native state. However, access, utilities, and facilities that service a typical lot and which have been determined by the authorized officer to have been paid for or provided by the Forest Service or a third party, shall be included as features of the typical lot to be appraised (sec. 33.42).

Do not appraise individual recreation residence lots within a grouping or tract. Appraise the typical lot or lots that have been selected from within a group of recreation residence lots that all have essentially the same or similar value characteristics, pursuant to the direction in section 33.41. Adjustments may be made for measurable differences among recreation residence lots within a grouping.

2. The appraiser shall conduct and prepare the appraisal in compliance with:

a. The edition of the ''Uniform Standards of Professional Appraisal Practice'' in effect on the date of the appraisal;

b. The edition of the ''Uniform Appraisal Standards for Federal Land Acquisitions'' in effect on the date of the appraisal;

c. The appraisal sections for recreation residence lots found in the FSH 5409.12, section 6.9, exhibit 06; and

d. Any other case-specific appraisal guidelines provided to the appraiser by the Forest Service.

3. The appraiser shall ensure that appraised values are based on comparable market sales of sufficient quality and quantity. The appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.

The appraiser shall not select sales of land within developed urban areas, and in most circumstances, should not select a sale of comparable land that includes land that is encumbered by a conservation easement or recreational easement held by a government or institution. Sales of land encumbered by an easement may be used in situations in which the comparable sale is a single home site and is sufficiently comparable to the recreation residence lot or lots being appraised.

The appraiser shall also consider, and adjust as appropriate, the prices of comparable sales for typical value influences, which include, but are not limited to:

a. Differences in the locations of the parcels.

b. Accessibility, including limitations on access attributable to weather, the condition of roads and trails, restrictions imposed by the agency, and so forth.

c. The presence of marketable timber.

d. Limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing.

e. The condition and regulatory compliance of any site improvements.

f. Any other typical value influences described in standard appraisal literature.

4. When an appraisal of the market value of a recreation residence lot in a tract is scheduled to occur, the authorized officer, or the authorized representative, and the appraiser shall, with a minimum 30-day written advance notice, arrange a meeting with the affected permit holders and provide them with information concerning the pending appraisal. At the meeting, holders shall be advised of the appraisal process, the method of appraisal, and selection of typical lots. Permit holders shall be afforded the opportunity to meet the appraiser individually, or as a group, concerning the selection of a typical lot or lots.

5. The appraiser shall provide the recreation residence permit holders with a minimum 30-day advance written notice (certified mail, return receipt requested) of the date and approximate time of the recreation residence lot visit. Documentation of the notification shall be included in the addenda of the appraisal report. At the recreation residence lot meeting, permit holders shall be given the opportunity to provide the appraiser with factual or market information pertinent to the valuation of the typical lot or lots. This information must be submitted in writing and shall be accounted for in the appraisal report.

33.41—Selection and Appraisal of Typical Lot

The appraiser shall appraise only the typical lot(s) selected within a tract. Before an appraisal is initiated, the authorized officer must make every effort to obtain the concurrence of the permit holders concerning the composition of the group or groupings of lots, which are essentially the same or which have similar economic value characteristics, and the selection of a typical lot(s). A representative typical lot shall be identified as economically typical of the recreation residence lots in each group. Exercise care in identifying and selecting a typical lot that is economically competitive with all of the recreation residence lots within the group it represents. The selection process shall be documented in a permanent case file for the tract.

With the advice of the appraiser, the authorized officer shall determine the composition of the group or groupings of recreation residence lots and the selection of a typical lot(s) when concurrence with the holders cannot be achieved. The inability to obtain concurrence with the holders on selection of the group or grouping of recreation residence lots and the selection of a typical lot(s) shall be documented and included in the permanent case file for the tract.

33.42—Inventorying Utilities, Access, and Facilities

The authorized officer is responsible for identifying, documenting, and inventorying all utilities, access, and facilities that service each of the typical lots within a recreation residence tract and providing that information to the appraiser as part of the appraisal assignment.

The inventory must include the authorized officer's determination of who paid for the capital costs of those utilities, access, or facilities. In doing so, the authorized officer shall presume that the permit holder, or the holder's predecessor, paid for the capital costs of the utility, access, or facility serving the typical lot, unless the authorized officer can document that either the Forest Service or a third party paid for those capital costs.

The types of utilities, access, and facilities that should be inventoried for each typical lot include, but are not limited to:

1. Potable water systems;

2. Roads, trails, air strips, boat docks, and water routes used to access the recreation residence lot or tract;

3. Waste disposal facilities; and

4. Utility lines, such as, telephone lines, fiber optic cable, electrical lines, cable TV, and so forth.

33.42a—Utilities Provided by Holder

Utilities shall be considered as provided by the holder when the holder, or the holder's predecessor:

1. Directly paid for the material and installation of the utility or road, or

2. Was assessed a lump sum fee for the installation, or was assessed a temporary surcharge to the utility or service that was in addition to the base rates assessed to all of the customers in the provider's rate base.

Hook-up fees or tap fees charged by a utility provider to connect to an existing facility do not constitute a payment of the capital costs of those facilities. The capital costs of those existing facilities are commonly assumed to be neighborhood-enhancing developments, if they were paid for and attributable to the entire service base, and the costs for installing them were borne by the provider of such service or utility.

33.42b—Utilities Provided by Forest Service or Third Party

The following evidence, when documented, shall serve as the basis for determining that the capital costs to construct a facility, utility, or access were provided by the Forest Service, or a third party:

1. A third party, such as a for-profit utility company, a not-for-profit cooperative, a water or sewer district, a municipality, and so forth, installed the utility service or facility, and that the third party provided the corresponding service to the subject lot without any lump sum or surcharge to base rates assessed to the holder or the holder's predecessor.

2. The roads providing access to a typical lot were built by a State, county, or local road agency, and were paid for from the general tax base or tax revenues used by that agency for road construction, without a specific lump sum or tax rate surcharge to the holder or the holder's predecessor.

3. Forest Service appropriations were used to construct the road, trail, or facility that provides access and/or service to the recreation residence lot.

4. The access to the recreation residence lot was built by a cooperator (pursuant to road or transportation cost-share agreement), or the access was indirectly paid by the Forest Service in the form of ''purchaser (road) credits'' pursuant to a timber sale contract.

5. The road, trail, utility, or facility that provides access or service to the subject recreation residence lot existed prior to the time when the recreation residence lot(s) within the tract was (were) first authorized for recreation residence use by the Forest Service. Such documentation shall be prima facie evidence that the capital costs to install the road, trail, utility, or facility were not paid for by the holder or the holder's predecessor.

33.5—Appraisal Specifications

Direction pertaining to appraisal specifications is found in FSH 5409.12, section 6.53, Recreation Residence Lots, and section 6.9, exhibits 06 and 07.

33.6—Review and Acceptance of Appraisal Report

The assigned Forest Service review appraiser shall review the appraisal report to ensure that it conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisition, and appraisal guidelines found in the FSH 5409.12, chapter 6.

If the appraisal meets the standards as described in this section and as documented in an appraisal review report prepared by the assigned Forest Service review appraiser, the authorized officer may accept the estimated market value of the typical lot or lots in the appraisal for establishing a new base fee for that recreation residence lot or lots.

33.7—Holder Notification of Accepted Appraisal Report and the Right of Second Appraisal

The authorized officer shall notify the affected holder or holders that the Forest Service has accepted the appraisal report (sec. 33.6) and has determined a new base fee based on that appraisal. Upon written request, the authorized officer shall:

1. Provide the holder with a copy of the appraisal report and supporting documentation.

2. Advise the holder that the holder has 60 days after receipt of this notification to notify the authorized officer in writing of the holder's intent to obtain a second appraisal.

3. Inform the holder that if a request for a second appraisal is submitted, the holder has one year following receipt of the notice to prepare, at the holder's expense, an agency-approved second appraisal of the typical lot on which the initial appraisal was conducted, using the same date of value as the original appraisal.

33.71—Standards for Second Appraisal

33.71a—Appraiser Qualifications

The appraiser selected by the holder or holders to conduct a second appraisal must:

1. Meet the same general State certification requirements as the original appraiser;

2. Have experience in appraising vacant, recreational use lands;

3. Have the same or similar qualifications as the appraiser who prepared the first appraisal; and

4. Be approved in advance by the assigned Forest Service review appraiser.

33.71b—Appraisal Guidelines

The second appraiser shall use the appraisal guidelines used in the initial appraisal (FSH 5409.12, sec. 6.9, ex. 06), as prescribed in a pre-work meeting that includes the holder's appraiser, the Forest Service review appraiser, and the holder or holders, or their authorized representative. Prior to starting the second appraisal, the appraiser shall sign an Assignment Agreement as provided in FSH 5409.12, section 6.9, exhibit 07. After completion of the second appraisal, and in a separate document, the appraiser shall notify the assigned Forest Service review appraiser of any material differences of fact or opinion between the initial appraisal conducted for or by the agency and the second appraisal. If the second appraiser identifies the ''material differences'' assignment as a conflict of interest, the appraiser may request that the ''material differences'' assignment be completed by another qualified appraiser approved by the Forest Service review appraiser. The second appraisal shall be submitted to the appraiser's client. The document that cites material differences of fact or opinion shall be submitted directly to the assigned Forest Service review appraiser.

33.72—Reconsideration of Recreation Residence Base Fee

Reconsideration of the recreation residence base fee shall be based solely on the results of the second appraisal. The authorized officer shall inform the holder that they must submit to the authorized officer a request for reconsideration of the base fee within 60 days of receipt of the second appraisal report.

Within 60 days of receipt of the request for reconsideration of the base fee, the authorized officer shall:

1. Review the initial appraisal and appraisal review report.

2. Review the results and commentary of the second appraisal and appraisal review report.

3. Establish a new base fee in an amount that is equal to the base fee established by the initial or the second appraisal or is within the range of

values, if any, between the initial and second appraisals.

4. Notify the holder or holders of the amount of the new base fee.

33.8—Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act

The transition period, as identified in section 614 of the Cabin User Fee Fairness Act (CUFFA), is that period of time between the date of enactment of CUFFA (Oct. 12, 2000) and the date upon which a base cabin user fee for a recreation residence is established as a result of implementing the final regulations, policies, and appraisal guidelines established pursuant to CUFFA.

The authorized officer shall, upon adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, notify all recreation residence permit holders whose recreation residence lots have been appraised since September 30, 1995, that they may request the Forest Service to take one of the following actions:

1. Conduct a new appraisal pursuant to regulations, policies, and appraisal guidelines established pursuant to CUFFA (sec. 33.82).

2. Commission a peer review of an existing appraisal of the typical lot completed since September 30, 1995 (sec. 33.83).

3. Establish a new base fee using the market value of the typical lot identified in an existing appraisal completed on or after September 30, 1995 (sec. 33.81).

A request to act on one of these options must be made by a simple majority of the holders within the group of recreation residence lots represented by the typical lot. To facilitate this process, the authorized officer shall provide each permit holder with the names and addresses of all of the other permit holders within the group of recreation residence lots that are represented by the typical lot, so that the holders within the group have the opportunity to collectively determine whether to exercise one of the options identified above.

33.81—Use of Appraisal Completed Since September 30, 1995

1. Establish a new base fee using 5 percent of the fee simple value, indexed to the current year, of a Forest Service approved appraisal of a typical lot completed since September 30, 1995, when:

a. Within two years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request for a new base fee is submitted in writing to the authorized officer by a majority of the holders within the group of recreation residence lots represented by a typical lot included in the appraisal (sec. 33.8, para. 3).

b. A majority of permit holders in a group of recreation residence lots fail to submit, within two years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request for one of the three options identified in section 33.8.

c. A peer review is requested and completed (sec. 33.8, para. 2), and the review determines that the appraisal completed since September 30, 1995, is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA.

2. Implement the new base fee at the time of the next regularly scheduled annual billing cycle, subject to the phase-in provisions established pursuant to CUFFA.

33.82—Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

A request for a new appraisal must be made within two years following the adoption of regulations, directives, and appraisal guidelines for recreation residences established pursuant to CUFFA. The authorized officer shall inform the holders that a request for a new appraisal must be submitted in writing to the authorized officer and must be signed by a majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot to be appraised. The authorized officer shall also inform those holders requesting a new appraisal that in their request they must agree to collectively pay for one-half the cost to conduct the new appraisal. In addition, holders whose previous appraisal indicated that a base fee would increase more than $3,000 from the annual fee being assessed on October 1, 1996, shall be notified that they must include the following statement as a part of their request for a new appraisal:

We hereby agree that, if the new base fee established by the new appraisal that we are hereby requesting results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of $_____, and an indicated annual fee of $_____), each of the permit holders within this group of recreation residence lots shall be obligated to pay to the United States the following:

1. The base fee that shall be established using the results of the new appraisal being requested, subject to the phase-in provisions of section 609 of CUFFA; and

2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____, (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year _____ (enter the calendar year the request for a new appraisal is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time. This difference for those calendar years cumulatively totals $_____, as itemized on the enclosed worksheet (enter the cumulative difference and attach a worksheet showing how it was calculated, itemized for each of the calendar years identified above).

We agree that the cumulative amount identified in Item #2 (above) shall be assessed as a premium fee amount, in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the new appraisal.

The authorized officer shall, upon receipt of a formal request, initiate a new appraisal of the typical lot in accordance with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA. The date of value of the new appraisal shall be the same date of value as that identified in the appraisal it is intended to replace.

33.83—Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

A request for a peer review of an existing appraisal completed since September 30, 1995, shall be made within two years following the adoption of regulations, policies, and appraisal guidelines for recreation residences pursuant to CUFFA. The request shall be submitted in writing to the authorized officer and must be signed by a majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot that was appraised. The holders requesting the peer review shall, in their request, agree to collectively pay for one-half the cost to commission the

review. In addition, holders requesting a peer review where the appraisal to be reviewed established a base fee that was more than a $3,000 annual increase to the fee being assessed the holders on October 1, 1996, shall include the following statement as a part of their request:

We hereby agree that, if the new base fee resulting from the peer review that we are hereby requesting results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of $_____, and an indicated annual fee of $_____), then each of the permit holders within this group of recreation residence lots shall be obligated to pay to the United States the following:

1. The base fee that shall be established pursuant to this peer review, subject to the phase-in provisions of section 609 of CUFFA; and

2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____ (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year_____ (insert the calendar year in which the request for a peer review is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been, had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time. This difference for those calendar years cumulatively totals $ _____, as itemized on the enclosed worksheet (enter the cumulative difference, and include an attached worksheet showing how it was calculated, itemized for each of the calendar years identified above). We agree that the cumulative amount identified in Item #2 (above) will be assessed as a premium fee amount, in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the peer review.

The authorized officer shall commission a peer review of the existing appraisal upon receipt of a written request to do so and upon submission of the appropriate documentation that shows that the request is being made by a majority of the holders affected. The manner in which the peer review is conducted shall be based upon the membership in a professional organization of the appraiser who conducted that appraisal as follows:

1. *Appraisals Prepared by an Appraiser Who Is a Member of a Single Appraisal Sponsor Organization of The Appraisal Foundation.* If the appraiser who prepared the appraisal that will be reviewed is a member of a single appraisal sponsor organization of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions to that appraisal sponsor organization for assignment to a member of an established panel of accredited or designated members selected by the sponsor organization for the purpose of peer review. In consultation with the accredited or designated panel member, the sponsor organization shall provide the authorized officer an estimate of total cost for the peer review. The authorized officer shall consult with a representative of the permit holders requesting the peer review to determine if the holders wish to proceed with the review, based on the estimated cost. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal. The peer review report shall be confined to an evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is not intended to be a formal technical appraisal review report in compliance with Standards Rule 3–2 of the Uniform Standards of Professional Appraisal Practice.

2. *Appraisals Prepared by an Appraiser Who Is Not a Member of a Sponsor Organization, or is a Member of Two or More Sponsor Organizations of The Appraisal Foundation.* If the appraiser who prepared the appraisal that will be reviewed is not a member of a sponsor organization of The Appraisal Foundation, or is a member of two or more sponsor organizations of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions, after consultation with the requesting permit holders, to a sponsor organization that has established a panel for peer review of recreation residence lot appraisals. If the authorized officer and a majority of the requesting permit holders cannot agree on which sponsor organization to solicit for the peer review, the authorized officer shall make the decision based upon a recommendation from the Regional Appraiser. The authorized officer shall request the selected appraisal sponsor organization to assign a member of the established panel of accredited or designated members to conduct the peer review. The authorized officer shall also request the sponsor organization to provide the authorized officer, in consultation with the accredited or designated panel member, an estimate of total cost for the peer review. The authorized officer shall consult with a representative of the requesting permit holders to determine if the holders want to proceed with the review, based on the estimated costs. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal. The peer review report shall be confined to evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is not intended to be a formal technical appraisal review report in compliance with Standard Rule 3–2 of the Uniform Standards of Professional Appraisal Practice.

a. If the peer review shows that the appraisal is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall establish a new base fee using 5 percent of the fee simple value of the typical lot identified in the appraisal.

b. If the peer review results in a determination that the appraisal was not conducted in a manner consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall either

(1) Establish a new base fee to reflect consistency with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, or

(2) Conduct a new appraisal in accordance with the provisions of CUFFA if requested by a majority of the affected holders.

* * * * *

FSH 5409.12—Appraisal Handbook

Chapter 6—Appraisal Contracting

6.5—Appraisals for Special Purposes

6.53—Recreation Residence Lots

The standard specifications for recreation residence lot appraisals shall be used Service-wide (sec. 6.9, ex.06). Do not modify or deviate from these

specifications without the approval of the Washington Office, Director of Lands.

Require all appraisers conducting a second appraisal for a recreation residence lot to submit an Assignment Agreement (sec. 6.9, ex. 07).

6.9—Exhibits

Exhibit 06—Required Specifications for Appraisal of Recreation Residence Lots

Exhibit 07—Assignment Agreement for Appraisal of Recreation Residence Lots

BILLING CODE 3410–11–P

6.9 - Exhibit 06

REQUIRED SPECIFICATIONS
FOR APPRAISAL OF RECREATION RESIDENCE LOTS

These specifications replace Section C of the Basic Specifications for Real Property Appraisal in total. They are intended for use in the appraisal of recreation residence lots. The procedures for identifying, inventorying, and preparing for the appraisal of these lots are included in FSH 2709.11, Chapter 30.

SECTION C-2 BASIC SPECIFICATIONS FOR REAL PROPERTY APPRAISALS

SECTION C-2.1 - GENERAL SPECIFICATIONS

C-2.1(a) - Scope of Service. The Contractor shall furnish all materials, supplies, tools, equipment, personnel, travel (except those to be furnished by the Government as listed in Section I), and shall complete all requirements of this contract including performance of the professional services listed herein.

The project consists of one or more self-contained appraisal report(s) per bid item for the specified property(ies). For the purposes of these specifications ". . . . any appraisal report, whether identified by the appraiser as a self-contained report or a summary report, will be considered as meeting the "Uniform Standards of Professional Appraisal Practice" (USPAP) requirements for a 'self-contained' report if it has been prepared in accordance with . . ." the "Uniform Appraisal Standards for Federal Land Acquisitions" (UASFLA, 2000; Section A). The report shall provide an estimate of market value for the estate to be appraised, and shall conform to the current edition of USPAP, published by The Appraisal Foundation, as well as UASFLA.
The Contractor may be provided a pre-determined date of value for the entire project; otherwise, the date of the value estimate shall be the last date the appraiser inspected the appraised property.

If clarification of these specifications is needed, and/or to arrange for the site inspection and pre-work meeting, the appraiser shall contact the assigned Forest Service review appraiser.

_____ (Review Appraiser)
_____ (Address)
_____ (Phone Number)

C-2.1(b) - Appraisal Report. The appraiser selected for the assignment shall make a detailed field inspection of the subject property as identified in Exhibit __, and shall make such investigations and studies as are necessary to derive sound conclusions and to

6.9 - Exhibit 06--Continued

prepare the appraisal report.

C-2.1(c) – Pre-Work Conference: At the request of the assigned Forest Service review appraiser, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions. The pre-work conference may be held in conjunction with the property examination [C-2.1(d)].

C-2.1(d) - Examination Notice. The authorized Forest Service officer, assigned Forest Service review appraiser, and Contractor shall offer to meet with the affected permit holders to provide them with information concerning the appraisal. The Contractor shall provide the permit holders at least a 30-day written notice in advance of the meeting. At the meeting, holders will be advised of the appraisal process, the method of appraisal, and selection of typical lots. The holders shall be given the opportunity and invited to provide the appraiser with factual or market information pertinent to the valuation of the typical lot or lots. This information must be submitted to the Contractor in writing, and shall be accounted for in the appraisal report. Permit holders will be afforded the opportunity to meet the Contractor individually, or as a group.

The Contractor shall provide the 30-day advance meeting notification by certified mail, return receipt requested, of the date and approximate time of the meeting. Documentation of notification shall be contained in the addenda of the appraisal report. The holders shall be given the opportunity to accompany the Contractor during the scheduled permitted recreation residence lot property examination. The Contractor shall certify that the signer of the report has personally visited the appraised property and all of the comparable transactions used in the comparative analyses.

C-2.1(e) - Updating of Report. Upon the request of the Government, the Contractor shall, during a two-year period following the date of the appraisal report, update the value as of a specified date. The updated report shall be submitted in original and _____ copies (number of copies to be determined) and shall include sales data or other evidence to substantiate the updated conclusion of value. Suggested format shown under Section C-2.3.

C-2.1(f) - Testimony. Upon the request of the United States Attorney or the Department of Justice, the Contractor shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date.

C-2.1(g) - Definition of Terms. Unless specifically defined herein or in either USPAP or UASFLA, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition. UASFLA shall take precedence in any differences among definitions.

6.9 - Exhibit 06--Continued

SECTION C-2.2 - TECHNICAL SPECIFICATIONS

Application of These Specifications. These technical specifications reflect the standards for the appraisal of property to be authorized for occupancy as a recreation residence lot by the Forest Service. The typical lot(s) to be appraised for this assignment are described in Exhibit ____.

Federal Law Controls. Federal law differs in some important aspects from the law of some states. Accordingly, it is incumbent upon the appraiser to understand the applicable Federal law as it affects the appraisal process in the estimation of market value.

The Federal law is reflected in UASFLA. These specifications follow UASFLA format, with emphasis on issues of special concern to the Forest Service. It should not be construed that the appraiser is to consider only the emphasized items. Appraisal reports shall be prepared in compliance with UASFLA standards and Forest Service appraisal instructions provided by the assigned review appraiser.

One aspect of the UASFLA that the appraiser should be aware of is the "unit rule." The unit rule requires valuing property as a whole rather than by the sum of the values of the various interests into which it may have been carved. A second aspect of the unit rule is that different elements or components of a tract of land are not to be separately valued and added together. Follow direction in UASFLA, Section B-13.

Jurisdictional Exception Rule. Conflicts between UASFLA and USPAP are minimal. When there is conflict, UASFLA takes precedence. It may be necessary to invoke the Jurisdictional Exception Rule (USPAP) to meet certain standards of the UASFLA and the "Cabin User Fee Fairness Act of 2000" (CUFFA). Invocation of the Jurisdictional Exception Rule must include citation of the over-riding Federal policy, rule, regulation, or law that requires it. The planned use of Jurisdictional Exception Rule of the USPAP shall be discussed with the assigned Forest Service review appraiser no later than the pre-work meeting.

Comprehensive Review. Federal law requires review of all appraisals by a qualified review appraiser to assure they meet applicable appraisal requirements, including those in UASFLA, Forest Service policy, and these specifications. Compliance with USPAP will also be reviewed. Findings of deficiency shall be discussed and corrections requested once the appraisal report has been delivered. A value estimate is acceptable for agency use only after the assigned Forest Service staff review appraiser has approved the appraisal report. (Forest Service Manual 5411)

Freedom of Information Act. Freedom of Information Act and CUFFA provisions will result in release of all or part of the appraisal report to the public. Prepare the report

6.9 - Exhibit 06--Continued

accordingly:

1. Analytical methods and techniques shall be explained (in so far as possible) in a manner understandable to the public, as well as the reviewer.

2. If providers of information request confidentiality, such information shall not be included in the report. Confidential information shall be made available to the reviewer upon request, but shall not be incorporated in a Forest Service system of records.

Unit of Comparison. The final estimate of value shall be on the basis of fee simple value for the typical lot, rather than a unit price expressed as a value per square foot, per acre, per front foot, or similar unit. Normally, the unit of comparison in the appraisal of recreation residence lots shall be the lot. Price per front foot for waterfront lot may be appropriate where it is demonstrated similar lots are bought and sold on a front-foot basis. However, the final estimate of value for the typical recreation lot shall be in terms of total fee simple value for the lot.

Lot. The appraiser shall identify the lot to be appraised in a manner that is consistent with the definition of a lot as identified at 36 CFR 251.51. When recreation residence uses and facilities occur beyond the platted boundaries displayed on a recreation residence tract map or beyond "lot" boundaries marked on the ground, the lot to be appraised shall extend beyond those plotted or marked boundaries to include all National Forest System land and related improvements being used or occupied by the permit holder.

Examples of uses or facilities that, in addition to the recreation residence itself, are considered related improvements may include, but are not limited to:

1. Ancillary structures, such as guest cabins, sleeping cabins, a second residence, and so forth.

2. Boat docks and boathouses (not including marinas).

3. Constructed pathways, boardwalks, sidewalks, stepping stones, brick pavers, and developed trails.

4. Woodpiles, picnic tables, and campfires sites.

5. Areas of vegetative manipulation and management conducted primarily for recreation residence purposes, such as landscaping, mowing, mulching, lawns, shoreline stabilization, and so forth.

6.9 - Exhibit 06--Continued

Physical Capacity of the Lot to Accommodate Essential Infrastructure. The physical capacity of the lot and appurtenant area to support essential infrastructure associated with recreation residence use, such as an appropriate septic system, domestic water source (well and pump) in conformance with local health and safety requirements, shall be documented in the appraisal and reflected in the value conclusion.

C-2.2(a) - Format. The report shall be typewritten on bond paper sized 8 1/2 by 11 inches with all parts of the report legible and shall be bound with a durable cover. The face of the report shall be labeled to identify the appraised property and to show the contract number, appraiser's name and address, and the date of the appraisal. All pages of the report, including the exhibits, shall be numbered.

C-2.2(b) - Contents. Following is a suggested format, based on UASFLA. Although it is not required that the appraiser strictly adhere to it, all items must be addressed. It should be noted that in most instances, these specifications reference UASFLA without reprinting them here. Important items are noted below, but are not all-inclusive. It is incumbent upon the appraiser to read, understand, and comply with UASFLA and these specifications.

C-2.2(b)(1) - PART I – INTRODUCTION. Follow the UASFLA format.

1. Title Page

2. Letter of Transmittal

3. Table of Contents

4. Appraiser's Certification: Follow the UASFLA (A-4) and USPAP guidelines, but include the following:

> "I have made a personal inspection of the appraised property which is the subject of this report and all comparable sales used in developing the estimate of value. The date(s) of inspection was _____, and the method of inspection was _____. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
>
> "The landowner and/or permit holder or the landowner's and/or permit holder's representative jointly inspected the property with the appraiser on (date)." (or the landowner and permit holder were invited to jointly inspect the property and declined).

6.9 - Exhibit 06--Continued

"In my opinion, the market value (or other value as required) is $ as of (date)_____."

By (Appraiser's signature)_____
Printed Name
State Certification #

5. Summary of Salient Facts and Conclusions. The summary of Salient Facts and Conclusions is a brief recital of the principal facts and conclusions contained in the appraisal report. The purpose is to offer convenient reference to the reader. In addition to the reporting requirements found in UASFLA, items which must be included in the summary are:

a. Name of recreation residence tract.

b. Size range of lots.

c. Authorized use, which is the highest and best use.

d. Improvements furnished by the Forest Service (or any other entity who is or was not a cabin owner) included in the appraised value.

e. Estimated value of each typical lot.

f. Other pertinent facts and conclusions to provide ease of use of the report by the reader, including any hypothetical conditions, extraordinary assumptions, limiting conditions, or special instructions.

g. Effective date of appraisal.

6. Photographs of Subject. Provide original color photographs or high quality color copies of photographs of the appraised property. Photographs may be a separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:

a. Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.

b. The name of the photographer.

c. The date the photograph was taken.

6.9 - Exhibit 06--Continued

7. Statement of Assumptions and Limiting Conditions. Note the following:

All appraisal reports submitted to the Forest Service for review become the property of the United States and may be used for any legal and proper purpose. Therefore, a condition that limits distribution of the report is not permitted.

If the appraisal has been made subject to any encumbrances against the property, such as easements, that shall be stated. It is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, except as stated in the body of the report; the encumbrances must be identified in this section of the report.

The adoption of an uninstructed assumption or hypothetical condition that results in other than "as is" market value will invalidate the appraisal. Include only factors relating to the appraisal problem. Assumptions and limiting conditions that are speculative in nature are inappropriate. Do not include limiting conditions that significantly restrict the application of the appraisal.

In this section of the specifications, or in separate written instructions, the contractor must be instructed as to necessary hypothetical conditions or extraordinary assumptions. The Contractor shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot. The Contractor shall not select sales of land within developed urban areas and, in most circumstances, should not select a sale of comparable land that includes land that is encumbered by a conservation easement or recreational easement held by a government or institution. Sales of land encumbered by an easement may be used in situations in which the comparable sale is a single home site and is sufficiently comparable to the lot or lots being appraised.

> "An appraiser cannot make an assumption or accept an instruction that is unreasonable or misleading. Agency instructions and/or legal instructions must have a sound foundation, must be in writing, and must be included in the appraisal report." (UASFLA D-3)

All cabin-owner-provided improvements on and to the lot are excluded from consideration in the value conclusion.

All utilities, access, or facilities that, in accordance with the inventory of those improvements, are identified as having been provided by the cabin owner, or a predecessor of the cabin owner, are to be excluded from consideration in the value conclusion.

The lot is appraised as if held in private ownership.

6.9 - Exhibit 06--Continued

The highest and best use of the lot is its authorized use, a recreation residence lot.

Lot size shall conform with all local zoning requirements in effect on the date of the original authorization and all applicable "grandfathering" provisions in effect on the date of value.

8. Scope of the Appraisal: This section shall fully describe the extent of investigation and analysis. The scope of work should be consistent with the intended use of the appraisal.

9. Purpose of the Appraisal: Note the following:

A description of the property rights appraised is to be included under factual data rather than in the Purpose section.

Use the following definition: "Market value is the amount in cash, or terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal." (UASFLA A-9)

This definition makes no linkage between the estimated market value and exposure time. A specific exposure time shall not be cited in an appraisal report prepared under UASFLA standards. Invoke the Jurisdictional Exception Rule to avoid a violation of USPAP standards, which require a specific exposure time.

The purpose of the appraisal is to determine market value of the fee simple estate of a typical lot or lots. The appraisal will be used by the Forest Service to determine the base cabin user fee required by the "Cabin User Fee Fairness Act of 2000." Intended users of the appraisal are the Forest Service and affected cabin owners.

10. Summary of Appraisal Problem

C-2.2(b)(2) - Part II - FACTUAL DATA

1. Legal Description. Note the following: The legal description is provided to the appraiser in the appraisal assignment. If a lengthy description would disrupt the narrative flow, it may be placed in the addenda and referenced in the text.

2. Property Rights. The estate appraised is fee simple title to the typical lot considered to be in a natural, native state. Utilities, access, or facilities serving the lot

6.9 - Exhibit 06--Continued

that are provided by the agency shall be included as features of the lot being appraised. Utilities, access, or facilities serving the lot that are provided by the cabin owner (or predecessor of the cabin owner) shall not be included as a feature of the lot being appraised. Utilities, access, or facilities serving the lot that are provided by a third party shall not be included as a feature of the lot being appraised, unless the Forest Service determines that the capital costs have not been paid by the cabin owner (or predecessor of the cabin owner). Discuss the effect on value of identified reservations, outstanding rights, and other encumbrances.

3. Area, City and Neighborhood Data. The use of boilerplate demographic and economic data is unnecessary and undesirable. Report only those data that directly impact the market analysis.

a. Area Map. Include a small-scale map showing the general location of the appraised property. It can be placed here or in the addenda.

b. Neighborhood Map. Show the appraised property and its immediate neighborhood. The map may be placed here or in the addenda.

4. Property Data. Include a narrative description of the significant land features of the property being appraised. Briefly describe the typical recreation residence lot and group within the tract including the following:

a. Site Description: Dimensions, size, shape, vegetative cover, soil types, topography, elevations, wetlands, flood plains, view, timber, water rights, effect of encumbrances, livestock forage, access, road frontage, utilities, location, or other characteristics that may affect value. A statement must be made concerning the existence or absence of mineral deposits having a commercial value. Evidence, if any, of hazardous substances shall be described by the appraiser. The typical lot is to be appraised as though in a natural, native state, defined by CUFFA as being free of any improvements at the time the lot or site was first authorized for recreation residence use by the agency.

b. Improvements: Note that the recreation residence is owned by the permit holder and that only the underlying National Forest System land is being appraised. The Contractor shall be provided applicable information contained in the inventory of improvements relating to the lot being appraised.

c. Fixtures

d. Use History: Ten-year history required.

e. Sales History: Include a ten-year record of all sales of the appraised property and, if the information is available, offers to buy or sell. If no sale has

6.9 - Exhibit 06--Continued

occurred in the past ten years, the appraiser shall report the last sale of the property, irrespective of date.

f. Zoning and Other Land-use Restrictions: Federal lands must be appraised under the assumption that they are already in non-Federal ownership and zoned consistent with similar non-Federal properties in the market area. The appraiser shall identify, in addition to zoning, all other land-use and environmental regulations, outstanding rights, and reservations that have an impact on the highest and best use and value of the property.

g. Appraised Property Map or Plat: Show the dimensions and topography of the appraised property in detail on a large-scale topographic map, at least 2 inches to the mile. The map may be placed here or in the addenda.

C-2.2(b)(3) - Part III – DATA ANALYSES AND CONCLUSIONS

1. Analysis of Highest and Best Use. The identified highest and best use shall be the authorized use; a lot suitable for use as a recreation residence site. No other potential highest and best use shall be considered or discussed in the appraisal report. Most recreation residence sites were authorized prior to all forms of local zoning in their respective market areas. "Grandfathering" requirements recognized by local zoning authorities shall represent the capacity of the lot to meet current State and local government zoning and land use requirements.

2. Value Estimate by the Sales Comparison Approach. Nearby arms length transactions, comparable to the land under appraisement, reasonably current, are the best evidence of market value. The Federal courts recognize the sales comparison approach as being normally the best evidence of market value.

Analyze the last sale of the subject property, if relevant. If not used, explain why. An unsupported claim that a sale of the subject property was a forced sale, or is not indicative of its current value, is unacceptable. (UASFLA B-5)

When supportable by market evidence, the use of quantified adjustments is preferred. Percentage and dollar adjustments may, and often should, be combined. Resort to qualitative adjustments only when there is inadequate market data to support quantitative adjustments. Factors that cannot be quantified are dealt with in qualitative analysis. When quantitative and qualitative adjustments are both used in the adjustment process, all quantitative adjustments should be made first.

Include a sales adjustment chart summarizing the adjustments and showing the final adjusted sale prices and how the sales compare with the subject property. Utilities, access, or facilities serving a lot that are provided by the agency shall be included as features of the lot being appraised. Utilities, access, or facilities serving a lot that are

6.9 - Exhibit 06--Continued

provided by the cabin owner (recreation residence permit holder) shall not be included as a feature of the lot being appraised. Utilities, access, or facilities serving a lot that are provided by a third party shall not be included as a feature of the lot being appraised unless the agency determines that the capital costs have not been or are not being paid by the cabin owner (or a predecessor or the cabin owner).

In a case where any comparable sale includes utilities, access, or facilities that are to be excluded in the appraisal of the subject lot, the price of the comparable sale shall be adjusted, as appropriate.

In selecting comparable sales, the appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot. The appraiser shall not select sales of comparable land that are within developed urban areas and should not, in most circumstances, select a sale of comparable land that includes land that is encumbered by a conservation or recreational easement that is held by a government or institution, except land that is limited to use as a site for one home.

The Contractor shall use the following adjustment process outlined in Section 606(b)(4)(C) of CUFFA:

The appraiser shall consider, and adjust as appropriate, the price comparable sales for typical lot value differences which include, but are not limited to:

a. Differences in the locations of the parcels.

b. Accessibility, including limitations on access attributable to weather, the conditions of roads and trails, restrictions imposed by the agency, or other factors.

c. The presence of marketable timber.

d. Limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing.

e. The condition and regulatory compliance of any site improvements.

f. Any other typical value influences described in standard appraisal literature.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction
- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale (all transactions must be verified with a party to the sale)

6.9 - Exhibit 06--Continued

- Market exposure
- Buyer motivation
- Location
- Size
- Legal description
- Property rights conveyed
- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, including their condition and regulatory compliance
- Physical description (accessibility, including limitations on access attributable to weather, road or trail condition, and restrictions on use; topography; vegetative cover and the presence of marketable timber; water influence; and other characteristics)
- Limitation on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing
- Non-realty items
- Economic characteristics
- Zoning, including setback requirements
- Subdivision covenants
- Current use
- Intended use
- Photographs

Include a list of the sales considered, but not actually used, in the addenda. Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used.

The appraiser shall adhere to UASFLA direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales. (UASFLA Sections B-4, D-9)

The appraiser must interpret the foregoing data, analyses, and estimates and state the reasons why the conclusion is the best indication of the market value for the typical lot. The indications given by the various sales cited and compared shall be analyzed individually to reach the final estimate of value showing which sale or sales were considered most comparable and provided the most reliable estimate of value for the typical lot.

6.9 - Exhibit 06--Continued

C-2.2(b)(4) - Part IV – EXHIBITS AND ADDENDA

Include the following items as applicable to the appraisal problem if not included in the body of the report:

1. Maps. Maps shall clearly identify the properties and be of sufficient quality to enable the reviewer to locate the properties on the ground. Maps shall be dated, include a legend, scale, and north arrow. The original copy of the report MUST contain original maps or vivid color copies.

a. Area Map - Small scale map showing the general location of the subject market area.

b. Neighborhood Map - This map shall show the appraised property and its immediate neighborhood.

c. Tract Map or Plat - This shall be a large-scale (2-inch/mile) USGS or similar quality map that clearly shows the appraised property and pertinent physical features such as roads, streams, and improvements.

d. Recreation Residence Tract Plat – This map will be furnished by the Forest Service, if available. The map generally depicts tract groupings and typical lot(s) within a grouping.

e. Comparable Sales Location Map - This map shall show the location of the appraised property and the sales. Delineate the boundaries of the appraised properties and comparable sales when the map is of sufficient scale to be meaningful. If all pertinent comparable sales cannot be shown on the same map as the appraised property, a smaller-scale map (such as a state road map) may be included in addition to the larger scale map.

2. Sale Transaction Forms. Include a completed form showing all information for each comparable transaction used in the appraisal. Include a plat (if available), a USGS topographic map (if appropriate), and color photo(s) of each sale. The transaction number must match the number of the transaction listed in the report.

3. Legal Description. Include a full legal description of the property appraised if not shown in the narrative section of the report.

4. Title Information. Include a copy of the statement of interest (status report) for the Federal land, if provided.

5. Photographs. Provide quality color photographs of the appraised property and all comparables in the original and all copies of the final report. Photographs may be a

6.9 - Exhibit 06--Continued

separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:

a. Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.

b. The name of the photographer.

c. The date the photograph was taken.

6. Authorization. A copy of the recreation residence permit for each typical lot included in the appraisal report. In the case of multiple permits, the face page only may be included so long as at least one set of standard clauses is included.

7. Records. Copies of written communications with the Forest Service and with cabin owners. Include meeting notices, receipt of meeting notification, record of attendance at meetings with the appraiser, notes regarding participation by cabin owners at site inspections, and other correspondence from/to cabin owners or the Forest Service.

8. References. List sources of data, including documents and individuals.

9. Qualifications of the Appraiser. Include the qualifications of all appraisers or technicians who made significant contributions to the completion of the appraisal assignment. The appraiser(s) must provide evidence of compliance with the certification requirements of the state(s) where the properties are located.

10. Assignment Agreement. Include a copy of the Assignment Agreement provided by the Forest Service and executed by the appraiser. (ex. 07)

SECTION E - INSPECTION AND ACCEPTANCE

E-1. Agriculture Acquisition Regulation (48 CFR Chapter 1), Clause 52.246-4, Inspection of Services - Fixed Price (Apr 84) (FSH 6309.32-AGAR 52.246-4) shall be the basis of inspection and acceptance.

SECTION F - DELIVERIES OR PERFORMANCE

F-1. Time for Contract Performance.

The Contractor shall submit to the assigned Forest Service staff review appraiser, ___ original and ____ copy(ies) of the original appraisal report for approval within ____ days of the Notice to Proceed. The review appraiser will then review the final appraisal report for acceptance or recommend revisions. If revisions are necessary, the revised

6.9 - Exhibit 06--Continued

report shall be submitted within ___ days of notification.

F-2. Contract time will proceed according to the following phases. Upon the completion of one phase remaining contract time shall not be carried forward.

PHASE 1 - _____ Calendar days - The Contractor shall submit to the Government copy(ies) of the appraisal report. The appraisal report shall be submitted to the Contracting Officer (CO) within 30 calendar days after the date of value, unless otherwise specified in writing by the CO or Contracting Officer's Representative (COR), who is usually the assigned Forest Service review appraiser.

PHASE 2 - _____ Calendar days - The Government shall review the original appraisal report for acceptance.

PHASE 3 - _____ Calendar days - The Contractor shall correct any deficiencies, if any, and submit the revised appraisal report to the Government.

PHASE 4 - _____ Calendar days - The Government shall review the revised appraisal report for acceptance.

F-3. Pre-work Conference. A pre-work meeting between the assigned Forest Service review appraiser and the Contractor is required, preferably during the site examination with the permit holder present.

SECTION G - CONTRACT ADMINISTRATION DATA

G-1. Method of Measurement. The unit of measurement is designated in the Schedule of Items, Section B of the Contract.

G-2. Measurement shall be made for each item or unit of work as shown in the Schedule of Items, completed as described in the Specifications and Supplements thereto.

G-3. Payment for contract work shall be made only for items listed in the Schedule of Items. All other work shall be considered incidental and included in the payment of the items listed in the Schedule of Items.

G-4. Payment shall be made upon receipt and approval of the final appraisal report. Typically, no progress payments shall be made. However, partial payments in an amount not less than 50 percent of the total price may be authorized if the technical review period shall be extensive due to the complexity of the appraisal problem.

G-5. Payment for updating shall be at a fixed fee that may be agreed upon at the time the updating is requested.

6.9 - Exhibit 06--Continued

G-6. Payment for testimony shall be at a fixed fee to be negotiated at the time the testimony is requested. Travel expenses shall be paid at a rate not to exceed Federal Government travel allowances.

G-7. At the Contractor's request, the COR and the Contractor shall jointly prepare Form 6300-30, Contract Payment Estimate and Invoice, for the signature of the Contracting Officer for payment. It is not necessary for the Contractor to submit any other Invoice or Statement.

G-8. Basis of Payment. The accepted quantities shall be paid for at the contract unit price for the items shown in the Schedule of Items.

G-9. All submitted appraisal reports become the property of the United States and may be used for any legal and proper purpose.

The Government shall furnish the following at the Supervisor's Office in _____, at the Contractor's request after the award:

I-1. Use of aerial photographs of the appraised property and of such other aerial photographs as are available. (To be returned to the COR upon completion of the appraisal, if not included as an exhibit to the report).

I-2. Copies of pertinent Forest Service administrative maps as available for use in the appraisal report.

I-3. Current Forest Service Land Status Reports covering the Federal lands, if not previously furnished.

I-4. Copies of pertinent documents relevant to the assignment from the special-use folder not previously provided.

6.9 – Exhibit 07

ASSIGNMENT AGREEMENT FOR THE APPRAISAL OF RECREATION RESIDENCE LOTS

Typical Lot __
(Name) **Summer Home Group or Tract**

I, ***(Name of contract appraiser)***, of ***(Address)***, have received a written copy of the recreation residence lot appraisal instructions for the ***(Name)*** National Forest. These instructions were prepared by assigned Forest Service staff review appraiser ***(Name and accreditation)***. My work in compliance with those instructions will be reviewed by her/him for compliance with the appraisal standards cited below. She/he will apply the same review requirements to my appraisal that was applied to the original appraisal of the typical lot. (Last sentence applicable only with second appraisals.)

I agree to abide by the written instructions, including the format in which my appraisal must be documented.

I understand that the date of value for this assignment is ***(Date)***.

I understand the full, complete, and accurate definition of the appraisal problem.

I shall abide by the *Uniform Standards of Professional Appraisal Practice*, the *Uniform Appraisal Standards for Federal Land Acquisitions*, the applicable sections of the *Cabin User Fee Fairness Act of 2000*, the laws of the State of ***(State)***, under which I am certified as a general appraiser, and the code of professional ethics and standards of professional practice of those appraisal organizations to which I belong.

I accept the requirements of this appraisal assignment that are imposed by Federal statutes and regulations, Forest Service policies and procedures, and instructions unique to this assignment.

_____ _____
(Signature of Contractor) (date)

(typed name and accreditation of Contractor)
(State appraiser certification information)

Note: The following table will not appear in the Forest Service Manual or Forest Service Handbook.

Table I - Section-by-Section Comparison Between the Current and Proposed Recreation Residence Directives

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
Section 604	FSM 2340.5 – *Definitions*	None	Adds definition for "caretaker cabin." A caretaker cabin is a residence occupying a lot within a recreation residence tract that is being used to provide caretaker services and security to the recreation residences within that tract.
Sections 602 and 603	FSM 2347.1- *Recreation Residences*	This section provides that recreation residences are a valid use of National Forest System lands and an important component of the overall National Forest recreation program.	Maintains existing language, but adds direction that the Forest Service shall, to the maximum extent practicable, manage the recreation residence program to preserve the opportunity for individual and family-oriented recreation.
Sections 604 and 607(b)	FSM 2347.12 – *Caretaker Cabin*	This section is currently titled "Caretaker Residences" and provides that land fees for a caretaker residence is 25 percent more than the fee for a recreation residence.	Changes section caption to "Caretaker Cabins," and retains direction for authorizing a caretaker cabin. FSM 2347.12b provides that a fee for a caretaker cabin is the same as a fee for use of the same lot as a recreation residence.
Section 606	FSM 2721.23d – *Fee Determination*	This section establishes a 20-year appraisal cycle.	Establishes a 10-year appraisal cycle.
	FSH 2709.11, Section 33	This section is currently titled "Recreation Residence Fees."	Changes caption to "Recreation Residence Lot Fees."
Section 604	FSH 2709.11, Section 33.05 – *Definitions*	None	Adds a section that defines "cabin," "recreation residence lot," "market value," "tract," "typical lot," "recreation residence," and "natural, native state."
Sections 606 through 608	FSH 2709.11, Section 33.1 – *Base Fees and Annual Adjustments*	This section, currently "Base Fees and Indexing," provides for: (1) appraisals conducted between 1978 and 1982 to be used as the basis for establishment of the base fee and adjusted forward using the Implicit Price Deflator- Gross National Product (IPD-GNP); (2) a phase-in upon adoption of the 1988 recreation	Changes the caption to "Base Fees and Annual Adjustments," and references appraisal procedures addressed in proposed sections 33.11 through 33.13.

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
		residence policy; (3) annual indexing using IPD-GNP; (4) maximum annual adjustments based on indexing of 10 percent; (5) adding to the base fee for additional structures on the recreation residence; and (6) appraisal cycles established every 20 years. Direction in this would either be removed or moved to other proposed sections, including direction on: (1) base fees (sec. 33.11); (2) phase-in provisions (sec. 33.12); (3) annual indexing (sec. 33.13); (4) maximum annual adjustments (sec. 33.13); (5) establishing the appraisal cycle (sec. 33.11); and (6) direction for additional sleeping structures on the recreation residence (sec. 33.11).	
Sections 606(b)(4)(D) and 607(a)	FSH 2709.11, Section 33.11 – *Establishing New Base Fee*	This section, currently "Fee Credit," provides for a fee reduced by the amount of any unused or remaining credits due holders under provisions of the Appropriations Acts for fiscal years 1983 through 1986. The current direction in section 33.11 would be removed, since fee credits have long since been depleted because they were applied in the billing years immediately after adoption of the 1988 policy.	This section replaces the now obsolete direction concerning fee credit, and instead provides that the base fee for a recreation residence lot shall be 5 percent of the market value of the lot as determined by appraisal. It eliminates direction (currently found in sec. 33.1, para. 5) directing that a premium of 25 percent of the base fee or $100 whichever is greater, be added to the base fee for each sleeping structure on a recreation residence (in addition to the recreation residence). This section also provides that the base fee shall be recalculated once every 10 years.
Section 609	FSH 2709.11, Section 33.12 – *Phase-in of Base Fee*	Current policy provides for only a one-time phase-in of the fees when the recreation residence policy was adopted in 1988 (sec. 33.1).	This new section would provide direction for implementing the phase-in provision of CUFFA, directing a phase-in of fees whenever the establishment of a new base fee results in an increase of more than 100 percent to a holder's most recent annual fee. The section includes an example to demonstrate

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			how the phase-in would be applied when a base fee results in more than a 100 percent increase of an annual fee.
Section 608(d)	FSH 2709.11, Section 33.13 – *Annual Adjustments of Recreation Residence Fees*	Current direction on annual adjustments to recreation residence fees is contained in section 33.1 and provides that the base fee is adjusted annually using the IPD-GNP, with a 10 percent annual maximum increase cap	The Forest Service will continue to use existing policy for annually indexing recreation residence rental fees, using the 2nd quarter to 2nd quarter change in the IPD-GDP. However, this section directs the implementation of a maximum adjustment of 5 percent in those years in which the annual change in the IPD-GDP index exceeds 5 percent, as provided in section 608(d) of CUFFA. Whenever the annualized change in the IPD-GDP exceeds 5 percent, then the maximum annual adjustment in the rental fee for such years will be 5 percent, and that part of the adjustment in excess of 5 percent will be applied in the next annual rental fee payment when the index change is less than 5 percent. This section includes two examples to demonstrate how rental fee increases in excess of 5 percent would be applied when the annualized change in the IPD-GDP exceeds 5 percent. (NOTE: Approximately two years after adopting the proposed rule and proposed directives in this notice, the Forest Service will develop policy to annually adjust recreation residence rental fees using the rolling 5-year average of the "Index of Agriculture Land Prices" published by the Department of Agriculture, as directed in section of 608 (a) and (b) of CUFFA.)

CUFFA Reference	***Forest Service Manual or Handbook Directive***	***Current Direction***	***Proposed Direction***
Section 607 (c) and (d)	FSH 2709.11, Section 33.2 – *Fees When Determination is Made To Place Recreation Residence on Tenure*	The section, currently "Fees on Nonrenewal," provides direction on determining fees for recreation residences when a decision is made to discontinue that use.	This section clarifies current direction on fees when a decision is made to discontinue the recreation residence use by providing specific instructions for the assessment of land use fees after a holder has been provided with a minimum 10 years of advance notice of the agency's decision to discontinue the holder's recreation residence use. The proposed directive includes a table that demonstrates how the fee is reduced by 10 percent each year during the last ten years of the permit term. This section also provides a process for recapturing fees that were forgone, should a subsequent decision is made by the agency not to discontinue the recreation use but allow it to continue
Section 607(e)	FSH 2709.11, Section 33.3 –*Fee When Recreation Residence Use Is Terminated or Revoked as Result of Acts of God or other Catastrophic Events*	This section currently "Appraisals," provides direction on appraiser qualifications (sec. 33.31) and establishing a recreation residence lot value (sec. 33.32). Direction currently contained in sections 33.3 through 33.32 would be revised and incorporated in proposed sections 33.4 through 33.72, with considerably more detail than the current direction in this section.	This section provides agency direction concerning fee obligations of the holder in the event of a catastrophe or an "act of God" that precludes the recreation residence from being safely used and occupied for recreation residence purposes. It directs that in such an event, the fee obligations of the holder shall terminate as of the date of the event or occurrence, and provides for a refund of a prorated portion of the fee that has already been paid for the billing year in which the catastrophic event occurred.
Section 606	FSH 2709.11, Section 33.4 – *Establishing Fair Market Value of Recreation Residence Lot*	Current direction concerning the qualifications of an appraiser, conducting appraisals, and establishing the value of a recreation residence lot is contained in sections 33.3 through 33.32.	This section provides technical considerations and the procedures to be followed when appraising a recreation residence lot. Paragraph 1 directs that appraisals be conducted by either a staff or contract appraiser who is licensed to practice in the State in which the recreation residence(s) to be appraised are located. It directs that the selection of a staff or contract appraiser be based on the individual's having had adequate training and demonstrated competence to conduct the appraisal assignment. It also directs that the

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			appraiser sign an "Assignment Agreement" as provided in FSH 5409.12, section 6.9, exhibit 07(see below). Paragraph 2 directs that the appraiser evaluate the market value of the fee simple estate of the lot, and that the access, utilities, and facilities that service the lot to be appraised that had been paid for by either the Forest Service or a third party, be included as features of the lot. Paragraph 3 directs that only previously selected typical lots be appraised, pursuant to section 33.41. Paragraph 4 directs that the authorized officer shall provide the appraiser with an inventory of utilities, access, and facilities servicing each typical lot to be appraised, as provided in section 33.42. Paragraph 5 includes an itemized listing of the standards and provisions for which compliance is required in conducting and preparing the appraisal. Paragraphs 6 and 7 provide direction for identifying and selecting sales of comparable land in appraising the value of a typical lot. Paragraph 8 includes a listing of typical value influences that the appraiser must consider in adjusting the prices of comparable sales in the appraisal of a typical lot. Paragraph 9 directs that the authorized officer and the appraiser initiate a meeting with all affected permit holders prior to conducting an appraisal, specifies how to notify the holders of such a meeting, and what to advise the holders at the meeting. This paragraph also directs the appraiser to give affected holders

CUFFA Reference	***Forest Service Manual or Handbook Directive***	***Current Direction***	***Proposed Direction***
			advance notice of the appraiser's field visit to the recreation residence (or lots) being appraised, and that the holders be given the opportunity to be present during that lot visit.
Section 606	FSH 2709.11, Section 33.41 – *Selection and Appraisal of Typical Lot*	Current direction concerning typical lot selections is contained in general direction for determining the fair market value of a recreation residence in sections 33.3 through 33.32.	This section proposes a more detailed process than current direction for identifying and selecting typical lots, with strong emphasis on working with the affected holders in the selection of a typical lot or lots. Authorized officers are directed to seek the concurrence of affected permit holders in identifying recreation residence groupings and in selecting the typical lot(s) to be appraised.
Section 606(a)(1)	FSH 2709.11, Section 33.42 – *Inventorying of Utilities, Access and Facilities*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32. That direction contains only general language regarding the effect on the appraised value of a recreation residence when a road, water system, or other utility is provided by a nonholder entity.	This section directs the authorized officer to identify and inventory utilities, access, and facilities that provide service to each typical lot within a recreation residence tract. It also provides criteria or guidelines for the authorized officer to use in making a determination as to who paid for the capital costs to construct those utilities, access, and other facilities servicing each typical lot.
Section 606	FSH 2709.11, Section 33.5 – *Appraisal Specifications*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32.	This section makes reference to FSH 5409.12, section 6.5; section 6.9, exhibit 06, Specifications for Conducting an Appraisal for Recreation Residences; and section 6.9, exhibit 07, Assignment Agreement for the Appraisal of Recreation Residence Lots.
Section 606	FSH 2709.11, Section 33.6 – *Review and Acceptance of Appraisal Report*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32.	This section provides direction concerning the manner in which a Forest Service Review Appraiser shall review an appraisal report and approve it for the authorized officer's acceptance and use in establishing a new base fee.
Section 610(a)	FSH 2709.11, Section 33.7 – *Holder Notification of Accepted Appraisal Report and Right of Second Appraisal*	Current direction concerning the authorized officer's acceptance of an appraisal report for establishment of a new base fee is only briefly addressed in section 33.32.	This section provides more detailed direction concerning the authorized officer's obligation to notify the affected holder or holders of the agency's acceptance of an appraisal report for the purpose of establishing a new base fee. It directs that if the holder intends to secure a second

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			appraisal, the holder must formally notify the Forest Service of that intent within 60 days. This direction also provides that if the holder chooses to exercise the option to secure a second appraisal, the holder must provide the authorized officer with a second appraisal report within one year of the date of the holder's receipt of the notice from the authorized officer.
Section 610(b)	FSH 2709.11, Section 33.71 – *Standards for Second Appraisal*	Current direction concerning the qualifications of an appraiser conducting a second appraisal, and the standards that a second appraisal must meet, is only briefly addressed in section 33.32.	This section proposes more detailed direction concerning the qualifications of an appraiser selected by the holder to conduct a second appraisal, and the standards that must be followed for conducting a second appraisal. The direction proposes that the second appraiser also sign an Assignment Agreement, pursuant to FSH 5409.12, section 6.9, exhibit 07.
Section 610(c) and (d)	FSH 2709.11, Section 33.72- *Reconsideration of Recreation Residence Base Fee*	Current direction in section 33.32 is vague with respect to procedures by which the holder can request a reconsideration of the authorized officer's establishment of a new base fee, pursuant to the completion of a second appraisal.	This section provides detailed, time-certain procedures, for the reconsideration of a new base fee pursuant to a second appraisal. It directs that the holder shall be provided with no more than 60 days following the authorized officer's receipt of a second appraisal report, within which to formally request a reconsideration of the new base fee, based on the findings of the second appraisal. It also directs that the authorized officer, within 60 days following receipt of that request from the holder, review the agency's initial appraisal and the holder's second appraisal, and establish a new base fee pursuant to the results of either appraisal, or somewhere within the range of values established by both appraisals.
Section 614	FSH 2709.11, Section 33.8 – *Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act*	Not Applicable.	This section requires the authorized officer to notify recreation residence permit holders that when the agency adopts final regulations, policies, and appraisal guidelines pursuant to CUFFA they may request either: (1) a new appraisal; (2) a peer review of an exiting appraisal completed since September 30, 1995; or (3) a base fee using the value established by an

CUFFA Reference	***Forest Service Manual or Handbook Directive***	***Current Direction***	***Proposed Direction***
			appraisal completed since September 30, 1995.
Section 614	FSH 2709.11, Section 33.81 – *Use of Appraisal Completed Since September 30, 1995*	Not Applicable.	This section provides direction for situations in which an appraisal completed since September 30, 1995, would be used to establish a new base fee.
Section 614	FSH 2709.11, Section 33.82 – *Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA*	Not Applicable.	This section provides guidance and procedures for requesting a new appraisal conducted under regulations, policies, and appraisal guidelines established pursuant to CUFFA.
Section 614	FSH 2709.11 Section 33.83 – *Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA*	Not Applicable.	This section provides guidance and procedures for requesting a peer review conducted under regulations, policies, and appraisal guidelines established pursuant to CUFFA.
Section 606	FSH 5409.12, Section 6.53 – *Recreation Residence Lots*	This section provides that the appraisal direction contained in exhibit 06, section 6.9, be used Service-wide and cannot be modified without approval of the Washington Office, Director of Lands.	This section revises appraisal contracting direction by replacing use of the current terminology for appraising "Recreation Residence Sites" to "Recreation Residence Lots," to be consistent with the terminology used in CUFFA. This section also directs that the appraisal guidelines for recreation residence lots, included in FSH 5409.12, section 6.9, exhibit 06, Required Specifications for Appraisal of Recreation Residence Lots, be used agency-wide, and that they can not be modified without the approval of the Director of Lands. The section requires that the appraiser execute an Assignment Agreement, as provided in FSH 5409.12, section 6.9, exhibit 07.

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
Section 606	FSH 5409.12, Section 6.9—*Exhibit 06*	Current contracting specifications (which were in use prior to the enactment of CUFFA) for appraising the fee simple value of a recreation residence site are contained in section 6.9, exhibit 06.	This section revised exhibit 06, which contains all the technical appraisal provisions and appraisal guidelines enumerated in section 606 of CUFFA. These technical specifications must be included in an appraisal contract for an appraisal conducted by a contract appraiser, and Forest Service staff appraisers must adhere to these provisions and procedures when conducting an appraisal of a recreation residence lot.
	FSH 5409.12, Section 6.9—*Exhibit 07*	There are no provisions in the current policy for documenting the appraiser's commitment to comply with appraisal instructions.	Exhibit 07, Assignment Agreement, requires both Forest Service staff appraisers and contract appraisers to document their intention to comply with the appraisal instructions (ex. 06), the provisions of CUFFA, the *Uniform Standards of Professional Appraisal Practice,* and the *Uniform Appraisal Standards for Federal Land Acquisitions*, prior to conducting an appraisal or a second appraisal of recreation residence lot.

[FR Doc. 03–11695 Filed 5–12–03; 8:45 am]
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Federal Register

Tuesday,
May 13, 2003

Part IV

Securities and Exchange Commission

17 CFR Parts 230, 232, 239, et al.
Mandated Electronic Filing and Web Site Posting for Forms 3, 4 and 5; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, 240, 249, 250, 259, 260, 269 and 274

[Release Nos. 33–8230, 34–47809, 35–27674, IC–26044; File No. S7–52–02]

RIN 3235–AI26

Mandated Electronic Filing and Web Site Posting for Forms 3, 4 and 5

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting rule and form amendments to mandate the electronic filing, and Web site posting by issuers with corporate Web sites, of beneficial ownership reports filed by officers, directors and principal security holders under section 16(a) of the Securities Exchange Act of 1934, generally as required by section 403 of the Sarbanes-Oxley Act of 2002. We have implemented changes to the EDGAR system in order to facilitate electronic filing. In addition, we are adopting rule changes to eliminate magnetic cartridges as a means of electronic filing. The rule and form amendments generally are adopted as proposed. However, we adopt additional rule amendments that permit section 16 forms submitted by direct transmission on or before 10 p.m. Eastern time to be deemed filed on the same business day and make a temporary hardship exemption unavailable to these forms. The intended general effect of the proposals is to facilitate compliance with the will of Congress, as reflected in amended section 16(a), and to facilitate the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information in a manner that will benefit investors, filers and the Commission.

DATES: Effective Date: June 30, 2003.

Compliance Dates: Reporting persons must comply with the electronic filing requirements for beneficial ownership reports filed on or after June 30, 2003. Issuers must comply with the Web site posting requirements as to beneficial ownership reports filed on or after June 30, 2003. Magnetic cartridges may not be used as a means of electronic filing after June 27, 2003.

FOR FURTHER INFORMATION CONTACT: For assistance with questions about the rule and form amendments in general, contact Mark W. Green, Senior Special Counsel (Regulatory Policy), at (202) 942–1940, or Anne M. Krauskopf, Special Counsel, at (202) 942–2900, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20459–0301. For assistance with technical questions about EDGAR or to request access codes, call the EDGAR Filer Support Office at (202) 942–8900.

SUPPLEMENTARY INFORMATION: We are adopting [1] amendments that will revise Rules 13,[2] 101,[3] 104[4] and 201[5] under Regulation S–T [6] and Rule 16a–3(h) [7] and Forms 3, 4 and 5 [8] under the Securities Exchange Act of 1934 (''Exchange Act'').[9] We also are adopting an amendment that will add new Rule 16a–3(k) under the Exchange Act. Finally, we are adopting amendments that will rescind Form ET [10] and revise Rule 12 of Regulation S–T,[11] Rule 110 [12] under the Securities Act of 1933 (''Securities Act''),[13] the description of Form 144 contained in the Code of Federal Regulations,[14] Rule 0–2 [15] under the Exchange Act, Rule 21 [16] under the Public Utility Holding Company Act of 1935 (''Public Utility Act''),[17] and Rule 0–5 [18] under the Trust Indenture Act of 1939 (''Trust Indenture Act'').[19]

I. Background

Section 16 [20] applies to every person who is the beneficial owner of more than 10% of any class of equity security registered under section 12 of the Exchange Act [21] and each officer and director (collectively, ''reporting persons'' or ''insiders'') of the issuer of the security. Upon becoming a reporting person, or upon the section 12 registration of that class of securities, section 16(a) [22] requires a reporting person to file an initial report [23] with the Commission disclosing the amount of his or her beneficial ownership of all equity securities of the issuer.[24] To keep this information current, section 16(a) also requires reporting persons to report to the Commission [25] changes in this ownership, or the purchase or sale of a security-based swap agreement [26] involving these equity securities.[27]

Before the effective date of the amendments adopted in this release, insiders may file reports on Forms 3, 4 and 5 either in paper or electronically on the Commission's Electronic Data Gathering, Analysis and Retrieval System (''EDGAR'').[28] On July 30, 2002, the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'') [29] was enacted. The Sarbanes-Oxley Act amended section 16(a) to require, not later than July 30, 2003, insiders to file these forms electronically, and the Commission and issuers with corporate Web sites to post change in beneficial ownership reports on their Web sites.[30]

The legislative mandate is consistent with our own progress, since 1993, toward requiring electronic filing of Forms 3, 4 and 5. In 1993, we adopted rules, primarily Regulation S–T,[31] that

[1] The amendments were proposed in Release No. 33–8170 (Dec. 27, 2002) [67 FR 79466] (''Proposing Release'').

[2] 17 CFR 232.13.

[3] 17 CFR 232.101.

[4] 17 CFR 232.104.

[5] 17 CFR 232.201.

[6] 17 CFR 232.10 *et seq.*

[7] 17 CFR 240.16a–3(h).

[8] 17 CFR 249.103, 249.104 and 249.105. Forms 3 and 4 also are authorized under the Investment Company Act of 1940 (''Investment Company Act'') [15 U.S.C. 80a–1 *et seq.*] under 17 CFR 274.202 and 274.203.

[9] 15 U.S.C. 78 *et seq.*

[10] 17 CFR 239.62, 249.445, 259.601, 269.6 and 274.401.

[11] 17 CFR 232.12.

[12] 17 CFR 230.110.

[13] 15 U.S.C. 77a *et seq.*

[14] 17 CFR 239.144.

[15] 17 CFR 240.0–2.

[16] 17 CFR 250.21.

[17] 15 U.S.C. 79a *et seq.*

[18] 17 CFR 260.0–5.

[19] 15 U.S.C. 77aaa *et seq.*

[20] 15 U.S.C. 78p.

[21] 15 U.S.C. 78*l.*

[22] 15 U.S.C. 78p(a).

[23] Insiders file initial reports on Form 3.

[24] Rule 3a12–3 [17 CFR 240.3a12–3] provides that securities registered by a foreign private issuer, as defined in Rule 3b–4 [17 CFR 240.3b–4], are exempt from section 16. The legislative and regulatory actions addressed in this release do not change this exemption.

[25] Section 16(a) also requires reporting persons to file their initial and transactional reports with each national securities exchange on which the issuer lists its equity securities. For classes of securities listed on the New York Stock Exchange, the American Stock Exchange and the Chicago Stock Exchange, filing section 16(a) reports on EDGAR satisfies the requirements of section 16(a)(1) (as amended) and Rule 16a–3(c) to file the reports with the exchange on which the securities are listed. *See* staff no-action letters to New York Stock Exchange (Jul. 22, 1998), American Stock Exchange (Jul. 22, 1998) and Chicago Stock Exchange (Jan. 18, 1998).

[26] As defined in section 206B of the Gramm-Leach-Bliley Financial Modernization Act of 1999, as amended by H.R. 4577, Pub. L. 106–554, 114 Stat. 2763.

[27] Insiders file transaction reports on Forms 4 and 5.

[28] Rule 101(b)(4) of Regulation S–T [17 CFR 232.101(b)(4)]. The percentage of Forms 3, 4 and 5 filed electronically on the current EDGAR system increased from approximately 8% in June 2002 (the last month before the Sarbanes-Oxley Act was enacted) to approximately 15% in August 2002 (the month the accelerated filing deadline took effect). The percentage held at approximately 15% in September 2002 but increased to approximately 25% in October 2002 and remained at that level in November 2002. The percentage subsequently increased to approximately 31% in December 2002, approximately 35–36% in January and February 2003, and approximately 38% in March 2003.

[29] Pub. L. No. 107–204, 116 Stat. 745.

[30] Section 16(a)(4), as amended by section 403 of the Sarbanes-Oxley Act.

[31] Release No. 33–6977 (Feb. 23, 1993) [58 FR 14628].

required domestic issuers to file most documents electronically but did not permit electronic filing of Forms 3, 4 and 5. In 1995, we revised Regulation S-T to permit voluntary electronic filing of Forms 3, 4 and 5.[32] In 1996, we asked for comment on whether to require EDGAR filing of any documents then allowed to be filed electronically on a voluntary basis.[33] Early in 2000, we announced that we intended to propose mandated electronic filing of Forms 3, 4 and 5 and asked for comments.[34] Later in 2000, we reiterated our expectation of proposing these requirements and stated that we would consider the comments received in connection with future rulemaking.[35]

In accordance with the will of Congress, on December 20, 2002, we proposed rule and form amendments that would mandate the electronic filing and Web site posting of Forms 3, 4 and 5. In the Proposing Release, we also proposed to eliminate magnetic cartridges as a means of electronic filing. We received 22 comment letters relating to the Proposing Release. Commenters that provided a general view on the proposals supported them as a means of achieving earlier public notification of insiders' transactions and wider public availability of information about those transactions. We address specific comments received where applicable in this release.[36]

In implementing Congress' directive to require Forms 3, 4 and 5 to be filed on EDGAR, we seek to achieve the same benefits for investors, filers and the Commission that we sought when we first mandated electronic filing for most documents. Since its inception, the primary goals of our EDGAR system have been to facilitate the rapid dissemination of financial and business information about companies and other parties participating in U.S. capital markets while making the transmission and the Commission's processing of filings more efficient.

Mandated electronic filing benefits members of the investing public and the financial community by making information contained in Commission filings available to them minutes after receipt by the Commission. Information concerning insiders' transactions in issuer equity securities will be publicly accessible substantially sooner and more broadly than it was before. In addition, the electronic format of the information facilitates research and data analysis. The accelerated section 16(a) filing requirement that took effect in August, 2002 makes electronic filing even more valuable.[37] Finally, investors clearly want electronic access to these forms.[38] Many investors believe that reports of directors' and executive officers' transactions in company equity securities provide useful information as to management's views of the performance or prospects of the company and that more timely and transparent access to reports will be even more useful.

Filers will benefit from changes to the electronic filing system specifically designed to make electronic filing easier while continuing to provide speedy, secure and reliable transmission, as discussed below. We note that many companies help their insiders or submit the insiders' filings on their behalf. We encourage this practice to facilitate accurate and timely filing. Our objective, however, is to create a system that insiders can use relatively easily themselves, particularly as an insider is legally responsible for filing regardless of who submits a filing on the insider's behalf.[39]

The use of EDGAR also will facilitate more efficient storage, retrieval and analysis of ownership and transaction information than paper filing. Quicker access to ownership and transaction information should not only facilitate review of the information but also enhance the Commission's ability to study and address issues that relate to this information.

Web site posting of Forms 3, 4 and 5 by issuers with corporate Web sites will provide a convenient, rapidly disseminated electronic source in addition to EDGAR that is conducive to research and data analysis. One objective of the amendments is to encourage availability of this information in a variety of locations, so that it is broadly accessible.

Following adoption of these electronic filing and Web site posting requirements, insiders will continue to be required to report the same transactions and holdings as before. In particular, section 16(a) requires insiders to report all security-based swap agreements[40] and transactions involving derivative securities,[41] including those in the form of over-the-counter options contracts, forwards, collars,[42] and security futures.[43] The Commission will take action for failure to report these transactions.

II. The Amendments

A. Required Electronic Filing of Forms 3, 4 and 5

We are adopting as proposed the amendments to Regulation S–T[44] to require insiders to file Forms 3, 4 and 5 with us on EDGAR.[45] As noted above, Rule 101(b)(4) of Regulation S–T currently permits reporting persons to file Forms 3, 4 and 5 on EDGAR. The amendments revise Rule 101 by:

- Removing subparagraph (4) from paragraph (b) (the voluntary EDGAR filing paragraph); and
- adding a reference to forms filed under section 16(a) to subparagraph (a)(1)(iii) (located in the mandated EDGAR filing paragraph).

Regulation S–T also requires the electronic filing of any related

[32] Release No. 33–7241 (Nov. 13, 1995) [60 FR 57682].

[33] Release No. 33–7369 (Dec. 5, 1996) [61 FR 65440].

[34] Release No. 33–7803 (Feb. 25, 2000) [65 FR 11507].

[35] Release No. 33–7855 (Apr. 27, 2000) [65 FR 24788]. We generally have addressed the electronic filing of Form 144 [17 CFR 239.144] in the same releases as we have addressed the electronic filing of Forms 3, 4 and 5. Although the adopted amendments do not address the electronic filing of Form 144, we may in the future propose to require that form also to be filed electronically.

[36] The comment letters and a summary of comments are available for public inspection and copying in our Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549, in File No. S7–52–02. Public comments submitted electronically and the summary of comments are available on our Web site at *http://www.sec.gov*.

[37] Before enactment of the Sarbanes-Oxley Act, section 16(a) generally required insiders to file a transaction report within 10 days of the close of the month in which the transaction occurred. The Sarbanes-Oxley Act amended section 16(a), effective for transactions on or after August 29, 2002, to require insiders to file a transaction report ''before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible'' [section 16(a)(2)(C) (15 U.S.C. 78p(a)(2)(C)), as amended by section 403 of the Sarbanes-Oxley Act]. On August 27, 2002, we adopted rule and form amendments to implement the accelerated filing deadline [Release No. 34–46421 (Sept. 3, 2002) [56 FR 56462]].

[38] The commenters on the Proposing Release that primarily represent investor interests and the one individual commenter all supported required electronic access.

[39] *Cf.* In the Matter of Bettina Bancroft, Release No. 34–32033 (Mar. 23, 1993).

[40] Section 16(a)(2)(C), as amended by section 403 of the Sarbanes-Oxley Act.

[41] Rule 16a–1(c) [17 CFR 240.16a–1(c)].

[42] *See* Section II.G of Release No. 34–34514 (Aug. 10, 1994) [59 FR 42449] and Section IV.H of Release No. 34–37260 (May 31, 1996) [61 FR 30376], addressing section 16(a) reporting of equity swaps and instruments with similar characteristics.

[43] Release No. 33–8107 (Jun. 21, 2002) [67 FR 43234].

[44] Regulation S–T is the general regulation governing EDGAR filing. In addition to complying with Regulation S–T, filers must submit electronic documents in accordance with the instructions in the EDGAR Filer Manual.

[45] We also are adopting an amendment to Rule 104(a) of Regulation S–T to make it clear that unofficial PDF copy submissions are unavailable to Forms 3, 4 and 5.

correspondence and supplemental information pertaining to a document that is the subject of mandated EDGAR.[46] These materials are not disseminated publicly but are available to the Commission staff. This requirement will apply to persons who file Forms 3, 4 and 5 on or after the effective date of the amendments.

B. Required Web Site Posting of Forms 3, 4 and 5

We also are adopting as proposed the amendment to Rule 16a–3[47] to add a new paragraph (k) to require an issuer that maintains a corporate Web site to post on its Web site all Forms 3, 4 and 5 filed with respect to its equity securities by the end of the business day after filing. One commenter asked us to clarify the term ''corporate Web site,'' stating that the term does not distinguish between public (internet) and private (intranet) sites. We clarify that the term ''corporate Web site'' refers to public (internet) sites, reflecting the legislative purpose of providing broader dissemination of this information to investors.

As we stated in the Proposing Release, an issuer can satisfy this requirement whether it provides access directly or by hyperlinking[48] to reports via a third-party service instead of maintaining the forms itself if the following conditions are met:[49]

- The forms are made available in the required time frame;
- access to the reports is free of charge to the user;
- the display format allows retrieval of all information in the forms;[50]
- the medium to access the forms is not so burdensome that the intended users cannot effectively access the information provided;[51]
- the access includes any exhibits or attachments;
- access to the forms is through the issuer Web site address the issuer normally uses for disseminating information to investors;[52] and
- any hyperlink is directly to the section 16 forms (or to a list of the section 16 forms) relating to the posting issuer instead of just to the home page or general search page of the third-party service.[53]

Three commenters addressed where hyperlinks must lead. Two of the commenters urged that we not require a hyperlink to each individual section 16 form because such a requirement would be unduly burdensome. The third commenter asked whether the hyperlink could be to a site with all Commission filings related to the issuer or whether it had to be to a site that contained only section 16 forms or a list of them. As stated in the list of conditions above, the hyperlink must lead directly to the section 16 forms or to a list of them. It is possible, for example, to link to the section 16 forms relating to an issuer in the EDGAR database on our Web site in a manner that does not require an update each time another section 16 form is filed as to that issuer.[54]

Two commenters addressed hyperlink captions. One of these commenters asked how specific the caption should be and the other suggested that we clarify that the link must be displayed clearly. We clarify that the link caption must indicate clearly that the link leads to the issuer's insiders' section 16 forms.

Two commenters questioned whether an issuer always could post section 16 filings by the end of the business day after filing. The commenters noted that, even where an insider complies with the Rule 16a–3(e)[55] requirement to send or deliver a duplicate of a section 16 form to the issuer not later than the time the form is transmitted for filing with the Commission, the issuer still may receive the filing after the Web site posting deadline, for example when the insider sends the form by certified mail. We recognize that issuers may need to coordinate more closely with their insiders to avoid this concern, but that such coordination may not always be practicable, particularly with more than 10% beneficial owners.

Rule 16a–3(e) requires the insider to send or deliver the duplicate to the person designated by the issuer to receive such statements, or, in the absence of such designation, to the issuer's corporate secretary or person performing equivalent functions. In making this designation, we would expect an issuer also to designate an electronic transmission medium compatible with the issuer's own systems, so that a form sent via that medium at the time specified by Rule 16a–3(e) would be received by the issuer in time to satisfy the Web site posting deadline. To assure that insiders are aware of the designated person and electronic transmission medium, we encourage issuers to post this information on their Web sites together with the section 16 filings. Of course, issuers also may consult EDGAR to obtain notice of new filings. We also note that the concern about obtaining an electronic copy of the filing would not arise for issuers that rely on a hyperlink (for example, to EDGAR) instead of, or in addition to, direct Web site posting.

Two commenters addressed posting duration. One favored a one-year period and the other favored at least a one-year period (noting that we might want to lengthen the period to allow investors to spot trends). As adopted, Rule 16a-3(k) requires each form to remain accessible on the issuer's Web site for at least a 12-month period. We believe that a 12-month period that begins when the form is posted strikes the right balance between the issuer effort needed to post and the investor benefit from having access to the section 16 forms through the additional source of the issuer's Web site. In this regard, we note that the section 16 forms will be available indefinitely in the EDGAR database on our Web site.

One commenter addressed rule-mandated Form 3 posting in the absence of a statutory requirement. The commenter favored our proposal to mandate Form 3 posting on the basis that it would provide timely and complete disclosure regarding initial ownership positions and, therefore, prove useful in assessing changes. We also conclude that mandated posting of Form 3 is appropriate. We believe that the benefits of wider dissemination of the fact that a person is an insider and

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[46] Regulation S–T Rule 101(a)(1) [17 CFR 232.101(a)(1)].

[47] 17 CFR 240.16a–3.

[48] In Release No. 33–7856 (Apr. 28, 2000) [65 FR 25843] (the ''2000 Release''), we provided interpretive guidance on the possible effects of hyperlinking to a third-party Web site. *See* the 2000 Release, at n. 48 and the accompanying text.

[49] Hyperlinking to these Forms in the EDGAR database on the Commission's Web site will satisfy the posting requirement if the conditions in this section otherwise are met. EDGAR currently displays Forms 3, 4 and 5 filed electronically and will do so under the contemplated on-line system, in both cases shortly after filing and within the period required by section 16(a)(4)(B) (by the end of the business day after filing).

[50] In this regard, we note that some third-party service providers publish only Table I information, which would not satisfy this condition. The third-party display format would need to publish all form information in order for a hyperlink to satisfy the issuer's Web site posting requirement.

[51] *See,* for example, Release No. 33–7233 (Oct. 6, 1995) [60 FR 53458], at n. 24 and the accompanying text.

[52] If the issuer has a corporate Web site but does not normally disseminate information to investors through the Web site, it must provide access to the forms through a location on its Web site that it reasonably believes will facilitate user access to the forms.

[53] An issuer could present the viewer with an intermediate screen stating that the visitor is leaving the issuer's Web site. Also, a disclaimer of responsibility for the accuracy of the third-party service would not make the Web site posting ineffective for purposes of the posting requirement. *See* generally regarding issuer Web site posting Release No. 33–8128 (Sept. 16, 2002) [67 FR 58480], at n. 132 and accompanying text.

[54] For example, an issuer could use a link such as the following where the issuer's Central Index Key (CIK) code is 0000906648: *http://www.sec.gov/cgi-bin/browse-edgar?company=&CIK=0000906648&owner=only&action=getcompany.*

[55] 17 CFR 240.16a–3(e).

that person's initial ownership will outweigh the marginal additional effort required to post these forms. Accordingly, we adopt this requirement as proposed.

The Web site posting requirement will become effective at the same time as the electronic filing requirement. However, we continue to encourage issuers to post section 16(a) reports on their Web sites before the implementation date.

The Commission is modifying proposed Rule 16a–3(k) with respect to investment companies.[56] One commenter noted that a Web site that contains information about an investment company typically would be maintained by a separate entity, such as its investment adviser, and recommended that we tailor the rule to reflect this. We agree that this is appropriate and are modifying Rule 16a–3(k) to clarify that the requirement to post Forms 3, 4, and 5 applies to an investment company that does not maintain its own Web site if the company's investment adviser, sponsor, depositor, trustee, administrator, principal underwriter, or any affiliated person of the investment company maintains a Web site that includes the name of the investment company. If there is more than one such Web site, the investment company would be required to post its Forms 3, 4, and 5 on one such Web site. We would expect the investment company to use the same Web site to post all of its Forms 3, 4 and 5.

C. Rule 16a–3(h)

As proposed, we are deleting as no longer necessary the deemed timely filed provision in Rule 16a–3(h) under the Exchange Act, effective at the same time the Forms 3, 4 and 5 electronic filing requirement becomes effective. Rule 16a–3(h) will continue to state that the date of filing is the date of receipt by the Commission.[57] The deletion applies only to the rule's provision that a Form 3, 4 or 5 will be deemed timely filed if the filing person establishes that the form was timely delivered to a third party entity providing delivery services in the ordinary course of business that guaranteed delivery of the filing to the Commission no later than the required filing date. Because the ''deemed timely filed'' provision was designed for and applies only to paper filings, we believe it no longer will be needed once the electronic filing requirement is effective.

One commenter suggested that we retain the ''deemed timely filed'' provision for guaranteed electronic filings, reasoning that a filer should not be considered delinquent when a third-party service provider fails to fulfill its filing guarantee. We believe, however, that in light of the improvements to EDGAR for section 16 form filing discussed below, electronic filing can be readily accomplished and there will be no need for the ''deemed timely filed'' provision in the electronic context.

D. Hardship Exemptions and Adjustments of Filing Dates

Rules 201 and 202 of Regulation S–T[58] address hardship exemptions from EDGAR filing requirements and Rule 13(b) of Regulation S–T[59] addresses the related issue of filing date adjustments.

A filer may obtain a temporary hardship exemption under Rule 201 if it experiences unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing by filing a properly legended paper copy[60] of the filing under cover of Form TH.[61] A filer who files in paper under the temporary hardship exemption must submit an electronic format copy of the filed paper document within six business days of the filing of the paper format document.[62]

A filer may apply for a continuing hardship exemption under Rule 202 if it cannot file all or part of a filing without undue burden or expense.[63] In contrast to the self-executing temporary hardship exemption process, a filer can obtain a continuing hardship exemption only by submitting a written application, upon which the Commission staff must then act under delegated authority.

Instead of pursuing a hardship exemption, a filer may request a filing date adjustment under Rule 13(b) of Regulation S–T.[64] This rule addresses circumstances where an electronic filer attempts in good faith to file a document with the Commission in a timely manner but the filing is delayed due to technical difficulties beyond the filer's control. In those instances, the filer may request an adjustment of the document's filing date. The staff may grant the request if it appears that the adjustment is appropriate and consistent with the public interest and the protection of investors.

In the Proposing Release, we asked questions regarding temporary hardship exemptions relating to whether to shorten electronic follow-up periods or, alternatively, eliminate the ability to use the temporary hardship exemption for section 16 filings. Three commenters addressed hardship exemptions, urging us to keep the temporary hardship exemption available for section 16 filings to accommodate the infrequent, deserving circumstances that arise or to adopt a tolerant attitude toward hardship exemption availability at least during the first 12 months of mandated electronic filing of section 16 forms.

After considering these comments, we have nonetheless decided to amend Rule 201(a) of Regulation S–T to make temporary hardship exemptions unavailable to Forms 3, 4 and 5 for the following reasons:

- The relative ease of using the new on-line filing system;
- the extended 10 p.m. Eastern time filing deadline;[65]
- the limited value to the public of paper filings; and
- the availability of a filing date adjustment under the same circumstances a temporary hardship exemption would have been available.

We agree with the commenters that relief should be available when appropriate circumstances arise, no matter how infrequent. We believe, however, that this relief will be more appropriate if provided through a filing date adjustment rather than through a temporary hardship exemption. The temporary hardship exemption is best suited for use in connection with a transactional filing that must reach the Commission on a specific date in order for some action to be taken. For example, if a company must file a pre-effective amendment to a Securities Act registration statement in order to request immediate acceleration of effectiveness, technical difficulties may justify filing the registration statement in paper under a temporary hardship exemption. In contrast, when the filing is a section 16 form, the public would be better served by having the document in electronic format. We believe an

[56] Insiders of exchange-traded investment companies are subject to section 16. *See* section 16(a) of the Exchange Act (requiring filing of section 16 reports with respect to equity securities registered under section 12 of the Exchange Act); section 12(b) of the Exchange Act (registration of securities traded on a national securities exchange); section 12(g) of the Exchange Act and Exchange Act Rule 12g–1 [17 CFR 240.12g–1] (requirement for registration of securities of issuers held by at least 500 persons and having total assets exceeding $10 million, with exclusion for any securities issued by a registered investment company). Further, section 30(h) of the Investment Company Act [15 U.S.C. 80a–29(h)] specifies insiders of registered closed-end funds who are subject to the same duties and liabilities as those imposed by section 16.

[57] The rule's equating date of filing with date of receipt was subject to the deemed timely filed provision before its deletion.

[58] 17 CFR 232.201 and 232.202.

[59] 17 CFR 232.13(b).

[60] *See* 17 CFR 232.201(a).

[61] 17 CFR 239.65, 249.447, 259.604 and 269.10.

[62] *See* 17 CFR 232.201(b).

[63] *See* 17 CFR 232.202(a).

[64] 17 CFR 232.13(b).

[65] See Section II.H below.

electronic section 16 form is likely to arrive sooner where a filing date adjustment is used than it would were it to come in as a confirming copy after a temporary hardship exemption was used.

Filing date adjustments, as would have been true of temporary hardship exemptions, should be few in number given the relative brevity of section 16 forms, the relative ease of electronically filing them through EDGAR's new on-line feature and the strong interest in timely and readily available disclosure of section 16 forms. A failure to obtain timely an identification number or access codes will not justify a filing date adjustment.[66] Moreover, as is also the case with other forms required to be filed on EDGAR, upon effectiveness of the rules we adopt today, our filing desk will not accept in paper format any Form 3, 4 or 5[67] except in the highly unlikely event that the filing satisfies the requirements for a continuing hardship exemption under Regulation S–T.[68] A filing date adjustment will, however, be available in appropriate circumstances.[69]

E. Item 405 of Regulation S–K

Recognizing that insiders may experience temporary difficulties in transitioning to mandated electronic filing, one commenter suggested that we provide issuers limited, temporary relief from disclosing section 16 reporting delinquencies pursuant to Item 405 of Regulations S–K and S–B.[70] This disclosure is required in the issuer's proxy or information statement,[71] for the annual meeting at which directors are elected, and its Form 10–K[72], 10–KSB[73] or N–SAR.[74] We are persuaded that temporary limited relief from Item 405 disclosure is appropriate for a Form 4 that is:

- Filed not later than one business day following the regular due date, and
- Filed during the first 12 months following the effective date of mandated electronic filing.

We believe that this temporary relief will be helpful to issuers and insiders, without removing issuers' incentive to assist insiders with timely filing. Eligibility for this disclosure relief does not change the fact that any Form 3, 4 or 5 filed later than the applicable due date violates section 16(a).

F. Forms 3, 4 and 5

We are adopting with minor revisions the proposed amendments to Forms 3, 4 and 5 mainly to facilitate the electronic filing provisions, as follows:

1. Amend the introductory section before the General Instructions of Forms 3, 4 and 5 to delete the reference to IRS identification numbers. Consistent with that deletion, we amend each of the forms to delete Item 3 (before Table I), which provides a space for a filer that is an entity, at its option, to include an IRS identification number.[75] We believe this information is unnecessary in this context. An IRS identification number has not proved useful for tracking because only some filers provide it. Only non-natural person filers have been permitted to provide it and even they could choose whether to do so.

2. Amend the General Instructions to Forms 3, 4 and 5 to:

- Delete the references to the deemed timely filed provision in Rule 16a–3(h);[76]
- Delete the statement that electronic filing is optional;[77]
- Add a statement clarifying that electronic filing is mandatory absent a hardship exemption, referencing Regulation S–T, and describing how to obtain staff assistance in electronic filing;[78]
- Revise the joint filer provisions to cross-reference the signature rule and separate out paper-only requirements; [79] and
- Add a note providing instructions for filing in paper pursuant to a hardship exemption.[80]

3. Amend General Instruction 6 to Forms 3, 4, and 5 to indicate that if a filer runs out of space on the electronic form, the filer should put the additional information in a footnote, and if there is not enough room in the space provided for a footnote, the footnote should refer to an exhibit to the form[81] that contains the additional information.[82] Revised General Instruction 6 also adopts a numbering system for exhibits.[83]

4. Add General Instruction 8 to Form 3 and General Instruction 9 to Forms 4 and 5 explaining how to present information in amendments to previously filed forms.[84]

5. Amend Item 4 of the items before Table I of Form 4 to clarify that it requires the date of the earliest transaction required to be reported.

6. Amend Item 6 of the items before Table I of Form 3 and Item 5 of the items before Table I of Forms 4 and 5 to require an amended form to specify the date the original form was filed.

7. Amend the heading of Form 5 to clarify it by adding at the end ''of Securities.''

8. Amend Items 4 and 5 of the items before Table I of Form 5 to require that,

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[66] *See* the note to Rule 10 of Regulation S–T [17 CFR 232.10] (''The Commission strongly urges any person or entity about to become subject to the disclosure and filing requirements of the federal securities laws to submit a Form ID [(through which an identification number and access codes are obtained)] well in advance of the first required [(electronic)] filing, * * *, in order to facilitate electronic filing on a timely basis'').

[67] Rule 14 of Regulation S–T [17 CFR 232.14]. Paper filings under hardship exemptions must include the appropriate legend on the cover page so the file desk does not return the filing.

[68] It is unlikely that a continuing hardship exemption would be granted with respect to Forms 3, 4 or 5 given the nature of the information that appears in these forms and the expected ease of electronic filing.

[69] The staff generally does not grant filing date adjustments over extended periods of time. If technical difficulties prevent the filing from being made on the due date, it is important to address these difficulties as quickly as possible and request the filing date adjustment promptly after the filing is made.

[70] 17 CFR 229.405 and 17 CFR 228.405.

[71] 17 CFR 240.14a–101, Item 7.

[72] 17 CFR 249.310.

[73] 17 CFR 249.310b.

[74] 17 CFR 274.101.

[75] We have renumbered the items that follow the deleted item. In this release, however, references to pre-Table I form items are to their numbers before renumbering.

[76] *See* former General Instruction 2(a) to Form 3, and former General Instruction 1(a) to Forms 4 and 5. These minor changes, not previously proposed, are needed to conform to the previously proposed and now adopted deletion of the deemed timely filed provision from Rule 16a–3(h).

[77] *See* former General Instruction 3(a) to Form 3, and former General Instruction 2(a) to Forms 4 and 5.

[78] *See* revised General Instruction 3(a) to Form 3 and revised General Instruction 2(a) to Forms 4 and 5. The adopted note omits the proposed language relating to temporary hardship exemptions.

[79] *See* revised General Instruction 5(b)(v) to Form 3 and revised General Instruction 4(b)(v) to Forms 4 and 5.

[80] *See* revised notes to General Instruction 3 of Form 3 and General Instruction 2 of Forms 4 and 5. The adopted note contains the proposed language with two exceptions. The adopted note omits the proposed language relating to temporary hardship exemptions. The adopted note includes a statement that at least one copy must be signed.

[81] Ownership and transaction information must be disclosed to the greatest extent possible in the forms' Tables I and II rather than in footnotes and attachments in order to maximize the value of EDGAR's tagging the data in the tables, and thus facilitate analysis.

[82] One commenter claimed that this amendment to General Instruction 6 would reduce disclosure and clarity by dispersing information to as many as three different places. We believe the amendment will not reduce disclosure and that filers can maintain clarity through cross-references. Further, we believe that the electronic forms provide adequate space on the forms and in the footnotes for almost all situations. It should be unusual for filers to need to provide additional explanatory material in a separate attachment.

[83] *See* revised General Instruction 6(c) to Forms 3, 4 and 5. The specified amendments to General Instruction 6 relating to exhibits are minor, clarifying amendments not previously proposed. We note that no exhibit, including, for example, a power of attorney, may be filed in paper, absent a hardship exemption, or on a stand-alone basis.

[84] This amendment as well as the amendments described in items 5, 6, 7, 9, 10, 12 and 13 of this Section II.D, are minor, clarifying amendments not previously proposed.

when addressing the date as to which the form is filed, a day be specified in addition to, as previously required, a month and year. Adding a day requirement will result in a full date that will ease processing and searches.

9. Amend Item 4 of the items before Table I of Form 5 to clarify that it requires the issuer's fiscal year end date.

10. Amend Form 5 by adding, in the space immediately below Table I and immediately above the sentence regarding multiple reporting persons, a reminder regarding separate line reporting of different securities classes and forms of ownership.

11. Amend the heading of column 9 of Table II of Form 5 to clarify that the reference to ''year'' is a reference to the issuer's fiscal year, which will make the heading consistent with the heading of column 5 of Table I of Form 5.

12. Amend the heading of column 10 of Table II of Form 5 to add the word ''form'' to clarify that the column requires disclosure of ownership form (*i.e.*, direct or indirect) and conform the heading with its counterparts in Table I of Form 5 and Tables I and II of Forms 3 and 4.[85]

13. Remove the reference to Social Security Numbers from the description of Securities Act Form 144.[86] This was inadvertently retained in previous rulemaking.[87]

G. Form ET

We are making one change to the EDGAR system and the rules that affects all filings, not just section 16(a) reports. Electronic filers have been permitted to make electronic submissions either as direct transmissions, via dial-up modem or Internet, or on magnetic cartridge.[88] However, the number of filers using magnetic cartridges is minimal. In the current calendar year, no filer has used magnetic cartridge transmission. During 2002, one filer filed one magnetic cartridge containing a single form. The filer apparently used the magnetic cartridge approach solely to avoid a temporary problem with direct transmission. Therefore, as proposed, we are eliminating[89] magnetic cartridges as a transmission medium and Form ET,[90] the transmittal form that must accompany all magnetic cartridge submissions.[91]

H. Filing Hours

Rule 13(a) of Regulation S–T addresses electronic submission acceptance. Currently, persons can file by direct electronic transmission between the hours of 8 a.m. and 10 p.m., Washington, DC time on weekdays that are not federal holidays. An accepted filing for which transmission begins before 5:30 p.m. Eastern time is deemed filed on the same day. Generally, an accepted filing that begins after 5:30 p.m. is deemed filed on the next business day.[92] However, a post-effective amendment or registration statement filed to increase the number of securities registered as permitted by Securities Act Rule 462(b)[93] is deemed filed on the same business day (as long as it is received before 10 p.m.).[94]

In the Proposing Release, we requested comment on amending Rule 13(a) to treat an accepted Form 3, 4 or 5 filing in the same manner as a Rule 462(b) filing for purposes of the deemed filing date. More commenters addressed filing hours than anything else. Eleven commenters supported the extension to 10 p.m. Two of those commenters also expressed support for an extension to midnight. Finally, four commenters expressed support for the ability to file 24 hours a day.

The commenters supporting a Rule 462(b) type extension to 10 p.m. or midnight generally took the view that

- The extension would ease administrative burdens, especially for filers that are natural persons or located in the western part of the U.S., particularly in light of the rapid Form 4 filing deadline; and
- Form dissemination still would occur no later than before the market opens the next business day, as is currently true for forms filed after market close but before 5:30 p.m. on a business day.

Commenters supporting 24-hour-a-day filing cited essentially the same views. In addition, two commenters stated their belief that the Commission would not need to be open 24 hours a day because forms filed when the Commission was closed could be held in a queue until re-opening. One commenter added its belief that the Commission should be able to perform maintenance and back-up without disrupting 24 hour-a-day filing.

We agree that extended filing hours would ease filers' administrative burdens, without impairing prompt public availability of the filed information. Accordingly, we have amended Rule 13(a) to provide that any Form 3, 4 or 5 submitted by direct transmission on or before 10 p.m. Eastern time is deemed filed on the same business day.[95] However, filer support hours will not be correspondingly extended, so filer support will remain available only until 7 p.m. Eastern time. We encourage filers to submit their filings as early in the day as practicable, notwithstanding the 10 p.m. deadline, to avoid the risk that last-minute difficulties will result in a late filing.

The EDGAR system will be programmed to provide that a form filed between 5:30 p.m. and 10 p.m. Eastern time is assigned a filing date on the same business day and disseminated that evening. We expect this programming to be completed around the end of July 2003. Until then, EDGAR will continue to assign the next business day to these filings as their filing date and disseminate them on the next business day. However, from the effective date of the amendments until the programming is completed, we will apply amended Rule 13(a) to consider a Form 3, 4 or 5 to be timely filed based on the time of receipt displayed on our Web site. A form with a time of receipt on or before 10 p.m. will be deemed to be filed on the date of receipt.

III. The New Electronic Filing System

The Proposing Release discussed our plans for a new on-line filing system to make it easier to file Forms 3, 4 and 5 and easier to locate and search for the data in these forms. In March 2003, the Commission made the new system available for testing. In its initial version, insiders and those who acted on their behalf were able to access our Web site to fill out and submit test forms. On May 5, 2003, EDGAR Release 8.5 became effective and the new system went live and began to provide the method for insiders to file

[85] We did not adopt the proposed amendment, appearing in the proposed regulatory text only, to modify the heading of Table II of Form 5 because the current heading of the form already reads as proposed.

[86] *See* 17 CFR 239.144, as amended.

[87] Release No. 33–7424 (July 1, 1997) [62 FR 35,338].

[88] *See* current Rules 12(b) and 12(c) of Regulation S–T [17 CFR 232.12(b) and 232.12(c)].

[89] *See* related amendments we are adopting, as proposed, to Securities Act Rule 110 [17 CFR 230.110], Rule 12 of Regulation S–T [17 CFR 232.12 and 232.103], Exchange Act Rule 0–2 [17b CFR 240.0–2], Public Utility Act Rule 21 [17 CFR 250.21], and Trust Indenture Act Rule 0–5 [17 CFR 260.0–5]. We also are adopting amendments we did not propose to revise a subauthority cite for part 239 of Chapter 17 of the Code of Federal Regulations to reflect the deletion of Form ET and to add a previously omitted cite to the United States Code.

[90] 17 CFR 239.62, 249.445, 259.601, 269.6 and 274.401.

[91] The one commenter to address magnetic cartridge transmission and Form ET favored their elimination.

[92] Rule 13(a)(2) of Regulation S–T [17 CFR 232.13(a)(2)].

[93] 17 CFR 230.462(b).

[94] Rule 13(a)(3) of Regulation S–T [17 CFR 232.13(a)(3)].

[95] 17 CFR 232.13(a)(4).

electronically.[96] As a result, EDGARLink filing no longer is available for these forms.[97]

Users of the test site commented that the new system was easy to use and intuitive. They identified some improvements that would be beneficial to filers. Most of these changes will be implemented in EDGAR Release 8.6, currently scheduled for the end of July.[98]

Some filers, either directly or through agents, may wish to create a customized form and file it as a reduced content filing. A reduced content filing is a filing that provides header information (*e.g.*, form type) and the data for mandatory fields that we specify and otherwise complies with specified technical filing requirements. In March 2003, we announced the necessary reduced content specifications, including, mandatory fields and technical filing requirements, to provide adequate preparation time before the new system's implementation.[99] Reduced content filings will enable issuers and insiders to use third-party service providers for filings, if they wish to do so, just as they do today.

In order to file, persons will need the same codes as are required to file on EDGARLink. Persons can acquire the codes only by submitting a Form ID.[100] We urge Form ID filers to keep the information they provide up to date by revising the information on-line through our Web site as necessary. Companies and other third party filing agents with appropriate access codes will continue to be able to submit forms on behalf of insiders.[101] We expect to introduce enhanced verification procedures in the future.

Under the new system, if a filing is made on behalf of multiple insiders, each insider will be required to have a Central Index Key (CIK) and CIK Confirmation Code (CCC) for validation.[102] Multiple insiders will be allowed to report on a single form only if they all have an interest in a transaction or holding reported.

To access and file the forms through our Web site, filers must begin by having valid EDGAR access codes and logging on to the site. A button on the menu will give filers the option to create an on-line Form 3, 4 or 5, or an amendment to any of these forms. The filer should have all the necessary information available before going on-line to file. Due to cost and technical limitations, data entry must be performed quickly enough to avoid time-outs that end the session. A time-out will occur one hour following the user's last activity on the system. The system will not be able to provide a way to save an incomplete form on-line from session to session. The system will validate as many fields as possible for data type and required fields while the filer fills in the form. Filers will have the chance to correct errors and verify the accuracy of the information before submitting the filing. An on-line help function will be available.

The filer will be able to download and print the filing and add attachments before submission.[103] Once the filing is submitted, the system will display the accession number of the filing or a message that says the accession number will follow in a return notification.[104] A filer will be able to obtain a return copy of the form shortly after filing, and also will be able to see the filing on our Web site. Filers who submit their forms directly by entering information into the on-line templates must click on the ''Transmit Submission'' button on or before 10 p.m. Eastern time on a Commission business day for the submission to be completed that day. Similarly, a reduced content filing must begin transmission on or before 10 p.m. Eastern time to be completed the same day.

Summarized below are comments we received regarding the system relating to access codes, filing options and system features, and our responses.

Four commenters asked us to address the situation where a Form ID is filed to obtain a new CCC access code for an insider who already has a CCC code. Two commenters stated that this can happen, for example, where an insider serves on multiple boards and more than one issuer arranges Form ID filing. The situation cited is that a new CCC is issued, which cancels the previous CCC. As a result, an attempt to file arranged by a person unaware of the change could result in an error message, delay and extra effort. As potential alternative resolutions, commenters suggested that the Commission:

- In response to a repeat Form ID, either provide the existing codes and permission to use them or return the Form ID to the insider with a notice that the insider already has access codes;
- Provide a mechanism to allow filers to determine whether the insider already has access codes;[105]
- Provide separate access code sets with respect to each issuer as to which the person files reports;[106] or
- Take the position that a good faith attempt to obtain and use codes that results in mishandling or termination of existing codes constitutes a valid basis for a temporary hardship exemption.[107]

We are sensitive to the concerns expressed regarding granting access codes to individuals. In some cases, an individual is an insider of more than one issuer. The staff takes care to assign only one CIK code to each individual, regardless of the number of issuers as to which the person files reports. When multiple issuers request CIK codes for the same individual, however, occasionally new access codes are assigned in error. Often one issuer tells the staff that the original codes have been lost or compromised when, in fact, the insider is using them when submitting filings as to another issuer. When new codes are generated for the same person, as identified by the unique CIK code, the previously generated codes become invalid.

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[96] Each new EDGAR release represents an updated version of the EDGAR system. *See* the draft Filer Manual for Release 8.5 on our Web site at *http://www.sec.gov/info/edgar/filermanual85.htm.*

[97] As previously discussed, unofficial PDF copy submissions are unavailable to Forms 3, 4 and 5.

[98] The principal needed improvement relates to modifying mandatory field requirements for certain holdings and types of transactions. On May 1, 2003, we released interim guidance on how to report the affected items before this improvement is made. The interim guidance is available on our Web site at *http://www.sec.gov/divisions/corpfin/sec16faq.htm.*

[99] The mandatory fields and technical filing requirements are available on our Web site at *http://www.sec.gov/info/edgar/edgar85xmlspec.htm.*

[100] 17 CFR 239.63, 249.446, 259.602, 269.7 and 274.402.

[101] Companies and other third party filing agents will need, in addition to their own access codes, the CIK and CCC codes of the insiders on whose behalf they file.

[102] In contrast, on EDGARLink, only one of the insiders needed a CIK and CCC.

[103] Filers should reference attachments in the form as exhibits and number them for clarity. As described above, a new General Instruction to each form specifies how exhibits should be numbered. In the rare event that a filer files an exhibit separately in paper under a continuing hardship exemption, the filer should place a Form SE [17 CFR 239.64, 249.444, 259.603, 269.8 and 274.403] cover on the exhibit. Use of Form SE for this purpose will help assure the exhibit is linked to the form.

[104] An ''accession number'' is a unique number generated by EDGAR for each electronic submission. Assignment of an accession number does not mean that EDGAR has accepted a submission.

[105] We assign to every person that requests access codes a CIK code unique identifier that is available publicly, for persons that have used their CIK code in making a filing, on our Web site under the ''Companies and Other Filers'' search at *http://www.sec.gov/edgar/searchedgar/companysearch.html.*

[106] Providing separate access codes as to each issuer would make it more difficult to find all the filings of a given insider and, thereby, undermine our goals of facilitating rapid and easy access to information.

[107] As previously discussed, temporary hardship exemptions will be unavailable to Forms 3, 4 and 5. One commenter claimed that sometimes delays in obtaining codes prevent timely filing. We are making strong efforts to provide codes timely, especially as more and more persons seek codes in connection with the implementation of mandated electronic filing.

We are exploring potential methods for the system to identify uniquely each insider and enable an insider, or an issuer or other third party acting on the insider's behalf, to manage the access codes more effectively and arrange new access codes, if necessary, on a real-time basis. Ultimately, we may address the situation even more broadly (*i.e.*, not only in the context of section 16 filings). For the time being, however, we urge

- Insiders to file Forms ID well in advance of when they expect to need codes, to keep track of their codes and to advise issuers for which they later become insiders of their existing codes; and
- Issuers and other third parties involved in the filing process to inquire whether an insider already has codes before submitting a Form ID filing on the insider's behalf.[108]

Five commenters addressed alternatives to limiting electronic filing of insider reports to the new on-line system. All five commenters suggested that insiders remain able to file through the current EDGARLink system during at least the initial few months of the new on-line system. Among their reasons were to provide more time for third-party software development, facilitate a smoother transition and enable filers to prepare a submission in advance (and thereby ease proofreading).

We have considered the commenters' suggestions and concerns regarding alternate methods of filing. However, due to technical and resource limitations, we cannot maintain parallel systems, such as EDGARLink and the new on-line system.

A significant number of commenters addressed the operation of the new on-line system. They addressed input features generally, the relationship between reduced content filings and on-line filing, and technical issues regarding data format and tagging.

Commenters suggested input features that are user-friendly in general and, in particular, allow users to

- Save incomplete forms for the next on-line session;
- Complete forms off-line and file them on-line;
- Use an unlimited number of lines in each transaction table;
- Receive a warning before a time-out;
- Avoid separately converting attachments into an EDGAR format;
- Avoid the need to input data manually into fields automatically populated based on, for an initial report, information in the Form ID and, for a subsequent report, information in the last previous report;
- Access instructions from the related part of the on-line template; and
- Use pull-down menus for a variety of items.

The system allows users to avoid separately converting attachments into an EDGAR form [109] and allows users to use pull-down menus in responding to some items. As the Commission staff and filers develop operational experience with the on-line filing system, we plan to consider whether pull-down menus would be feasible for additional items.

Due to cost and storage limitations, the system currently does not allow users to:

- Save incomplete forms for the next on-line session (but the system does allow users to print their incomplete forms and, thereby, retain a hard copy);
- Complete forms off-line and file them on-line except by using a third party or other reduced content filing process;
- Use an unlimited number of lines in each transaction table (but we believe the number of lines available adequate);
- Receive a warning before a time-out;
- Avoid the need to input data manually into fields automatically populated based on, for a Form 4 or Form 5, information in the last previous report (but some fields will be populated automatically based on information in the Form ID (*e.g.*, the insider's name)); or
- Access instructions from the related part of the on-line template.

We plan to consider these features and other improvements in connection with potential future system enhancements. We encourage system users to continue to provide their comments and suggestions to the staff.

Six commenters asked questions or cited concerns about data tagging and the format selected for information filed and displayed. The system requires that information be filed in the standard format of XML. We will disseminate that information on our website in two formats—viewable through a form and XML tagged. Users can take the XML tagged information and download it into an existing application or create an application to use the information. We believe that our approach to filing and dissemination formats makes it relatively easy to file, access and analyze insider beneficial ownership information.

Some commenters requested that we put Forms 3, 4 and 5 and their amendments in a separate area of our website. They stated that this would provide easy access to the information for members of the public interested in these forms. We believe that the same effect has been accomplished by providing the ability on our Web site to make a search limited to these forms, as well as the ability to search for company filings excluding these forms.[110]

IV. Paperwork Reduction Act

The amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[111] We published a notice requesting comment on the collection of information requirements in the Proposing Release, and submitted these requirements to the Office of Management and Budget (''OMB'') for review.[112] These requests are pending before the OMB. When we receive OMB clearance, we will publish notice in the **Federal Register**. We did not receive any comments on the Paperwork Reduction Act analysis contained in the Proposing Release.

Consistent with the will of Congress, the amendments that affect all of these information collections, except for Form ET, generally conform the amended rules and forms to the mandated electronic filing requirements provided by the amendments to section 16(a) enacted in section 403 of the Sarbanes-Oxley Act.

Compliance with the adopted amendments will be mandatory. The information required by the amendments will not be kept confidential by the Commission except that the information required by Form ID will be kept confidential, subject to a request under the Freedom of Information Act.[113]

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number. The titles of the

[108] As previously noted, this can be done for persons that have used their CIK code in making a filing by using the ''Companies and Other Filers'' search on our Web site at *http://www.sec.gov/edgar/searchedgar/companysearch.html.*

[109] Attachments must be in HTML or ASCII format.

[110] See the latest version of the ''EDGAR Company Search,'' which allows site visitors to choose to include Forms 3, 4 and 5 with other company filings in their search results, exclude them entirely or display only Forms 3, 4 and 5. This search may be found on our website at *http://www.sec.gov/edgar/searchedgar/companysearch.html.*

[111] 44 U.S.C. 3501 *et seq.*

[112] Publication and submission were in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[113] 5 U.S.C. 552. The Commission's regulations that implement the act are at 17 CFR 200.80 *et seq.*

affected information collections are the EDGAR Forms ID, ET, SE and TH, and Exchange Act Forms 3, 4 and 5. The changes made to the proposed amendments would not increase the burden estimates for Forms ID, ET, SE and TH previously submitted to the OMB.[114] We expect that the adopted amendments will obligate reporting persons to disclose on Forms 3, 4 and 5 essentially the same information that they are required to disclose today.[115]

V. Cost-Benefit Analysis

The adopted amendments relating to mandated electronic filing and Web site posting largely represent the implementation of a Congressional mandate. As we stated in the Proposing Release, we expect these amendments will achieve the same benefits for investors and filers that we sought when we first adopted mandated EDGAR rules for most filings.[116]

We solicited comment on the expected benefits and costs and on any others that could result from adoption of mandated electronic filing and Web site posting requirements. We also requested data as to what percentage of filings are done by or with the help of the issuer. We discuss the responses below.

A. Benefits

We expect the adopted amendments regarding mandated electronic filing and Web site posting to benefit investors and filers.

Mandated electronic filing should benefit members of the investing public and financial community by making information contained in Commission filings easily available to them minutes after receipt by the Commission and, thereby, make them more likely to access and act quickly on the information. The electronic format of the information should facilitate research and data analysis. The new accelerated section 16(a) filing requirement described above should make quick electronic access even more valuable.

Filers should benefit from changes to the electronic filing system specifically designed to make electronic filing easier while continuing to provide speedy, secure and reliable delivery.

The use of EDGAR also will facilitate more efficient storage, retrieval and analysis of ownership and transaction information than filing in paper. Quicker access to ownership and transaction information should not only facilitate review of the information but also enhance the Commission's ability to study and address issues that relate to this information.

Website posting by issuers with corporate Web sites will provide a convenient, rapidly disseminated electronic source in addition to EDGAR that is conducive to research and data analysis. In general, Web site posting will help to make ownership and transaction information more broadly accessible.

Of the commenters that expressed support for some or all of the proposed amendments, three cited benefits among those we stated we expected to result. All three commenters cited more timely access to information. Two commenters cited easier access to information. No commenter provided data to quantify the value of benefits identified.

B. Costs

We expect that the adopted amendments regarding mandated electronic filing and Web site posting will result in some costs to insiders and issuers. However, we expect that many insiders and issuers will not bear the full range of costs resulting from the adoption of these amendments for the reasons described below.

The expected costs of mandated electronic filing consist of both initial and ongoing costs. Initial costs are those associated with obtaining, completing and sending to the Commission a Form ID to obtain filing credentials, and the purchase of compatible computer equipment and software. Initial costs further include those associated with learning about the electronic filing system, placing the filing data in electronic format for the initial electronic filing and subscribing to an Internet service provider. Ongoing costs are those associated with maintaining the framework developed through the initial costs (for example, updating information required by Form ID) and any additional costs arising from each subsequent filing (for example, placing the new filing data in electronic format).[117]

We expect that many insiders will incur few, if any, additional costs from electronic filing. We understand that many issuers help their insiders or submit the insiders' filings on their behalf. To the extent insiders do not receive this assistance, we believe many already will have the necessary computer equipment and Internet access to enable them to file using the templates that will appear on the Commission's Web site. Finally, some insiders already have filed Forms ID and gained experience in arranging electronic filing. As previously noted, approximately 38% of the Forms 3, 4 and 5 filed in March 2003 were filed electronically.

Even issuers that help their insiders to file electronically, whether to a greater or lesser extent, are not likely to incur additional costs. These issuers already are required to file on EDGAR and generally have the needed computer equipment and Internet service provider access to enable them to facilitate filing using the templates that will appear on the Commission's website.

Issuers should incur relatively few direct costs from the Web site posting requirement. Because the requirement applies only to issuers that already have a corporate Web site, issuers will not need to incur the costs associated with creating or maintaining a Web site. In addition, issuers could limit their additional costs associated with posting by hyperlinking to a third-party Web site such as EDGAR.[118]

Of the commenters expressing concerns in terms of cost or burden, most expressed concern about filing hours. Five commenters essentially stated that a 5:30 p.m. Eastern time filing deadline would be overly burdensome.[119] As we noted earlier, we are extending the filing deadline to 10:00 p.m. Eastern time.

Two commenters expressed concern about the burden on issuers that satisfy their Web site posting requirement by hyperlinks if we require the hyperlinks to be updated with each section 16 report filing. As we noted earlier, it is possible, for example, to link to the section 16 reports relating to an issuer in the EDGAR database on our Web site

[114] *See* Proposing Release, Part V for a description of, and the burden estimates for, Forms ID, ET, SE and TH. The change to the proposed amendments that makes temporary hardship exemptions unavailable to section 16 reports would reduce the burden estimate for Form TH because no additional respondents would file Form TH as a result of the adopted amendments. Consequently, the estimated annual number of respondents to Form TH and estimated total annual hour burden for Form TH would remain at 70 and 23.1, respectively.

[115] The addition to Forms 3, 4 and 5 of requirements to reference exhibits and amend the forms in a specified manner creates an additional burden that is so small it is not quantifiable. The other changes to Forms 3, 4 and 5 are minor and do not add any collection of information burden.

[116] The expected benefits and costs to those outside the Commission from the adopted amendments relating to eliminating Form ET and magnetic cartridge transmission are expected to be *de minimis*. Magnetic cartridge transmission rarely is used.

[117] Other minor costs could include, for example, preparing a filing date adjustment request.

[118] As previously noted, the expected costs to those outside the Commission from the adopted amendments relating to eliminating Form ET and magnetic cartridge transmission are expected to be *de minimis*. Magnetic cartridge transmission rarely is used.

[119] Twelve commenters supported an extension of the filing deadline beyond 5:30 p.m.

in a manner that does not require an update each time another section 16 report is filed as to that issuer.

One commenter stated that a failure to maintain EDGARLink as a filing option once the new system is in place would require third-party software providers to implement the new requirements outside the normal development cycle and, as a result, could place a considerable strain on their resources.[120] As we noted earlier, due to technical and resource limitations, we cannot maintain parallel systems.

One commenter suggested that we make minor changes to the current EDGARLink approach rather than provide a new system in order to avoid overly burdensome costs to disseminators. We believe that approach would be inconsistent with our goal of establishing a user-friendly system. One commenter stated that if the new system is not user-friendly, we should not underestimate the costs.

VI. Effect on Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act[121] requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Furthermore, section 2(b) of the Securities Act,[122] section 3(f) of the Exchange Act[123] and section 2(c) of the Investment Company Act require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The adopted amendments regarding mandated electronic filing and Web site posting are intended to facilitate the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information.[124] This should improve investors' ability to make informed investment and voting decisions. Informed investment and voting decisions generally promote market efficiency and capital formation.

In the Proposing Release, we considered the amendments in light of the standards set forth in the above statutory sections. We solicited comment on whether, if adopted, the proposed amendments would impose a burden on competition. We also requested comment on whether, if adopted, the proposed amendments would promote efficiency, competition and capital formation. Finally, we requested commenters to provide empirical data and other factual support for their views if possible.

While several commenters stated that various aspects of the proposed amendments would result in undue burdens, only one commenter addressed anti-competitive effects. According to this commenter, the new on-line filing system would curtail the private sector business that provides software programs that facilitate insider filings. This commenter further asserted that this private sector business would innovate if not given an early disincentive from developing efficient filing systems. We believe that it is very important for insiders to have a user-friendly system that they can use relatively easily to fulfill their filing obligations. We further believe that such a system will not discourage significantly private sector businesses that develop filing software because these businesses can provide features the new on-line system does not.

VII. Final Regulatory Flexibility Act Analysis

This Final Regulatory Flexibility Analysis or FRFA, has been prepared in accordance with the Regulatory Flexibility Act.[125] This FRFA relates to amendments regarding mandated electronic filing and Web site posting of Forms 3, 4 and 5.[126]

A. Need for the Amendments

An issuer's insiders use Forms 3, 4 and 5 to report beneficial ownership of and trading in equity securities of the issuer. Consistent with the will of Congress, the adopted mandated electronic filing and Web site posting amendments generally conform the amended rules and forms to the mandated electronic filing and Web site posting requirements provided by the amendments to section 16(a) enacted in section 403 of the Sarbanes-Oxley Act. In addition, we believe the proposed amendments will benefit investors, filers and the Commission.

B. Significant Issues Raised by Public Comment

The Initial Regulatory Flexibility Act Analysis (''IRFA'') appeared in the Proposing Release. We requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposals, the nature of the impact, and how to quantify the impact of the proposals. We received no comment letters responding to the request.

C. Small Entities Subject to the Amendments

The mandated electronic filing and Web site posting amendments will affect small entities that either are insiders that are not natural persons or are issuers with a corporate Web site that have a class of equity securities registered under Exchange Act section 12.

Exchange Act Rule 0–10(a)[127] defines an entity, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. As of March 30, 2003, we estimated that there were approximately 8840 insiders[128] and fewer than 2500 issuers that have a class of equity securities registered under Exchange Act section 12, other than investment companies, that may be considered small entities. The mandated electronic filing amendments will apply to all of these insiders. The mandated Web site posting amendments will apply to all of these issuers with corporate Web sites.

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year. As of June, 2002, we estimate that there were 36 closed-end investment companies, and 29 business development companies, that are ''small entities'' for purposes of the Regulatory Flexibility Act that possibly could be affected by the amendments.

[120] As noted earlier, five commenters suggested that insiders remain able to file through the EDGARLink system during at least the initial few months of the new system.

[121] 15 U.S.C. 78w(a)(2).

[122] 15 U.S.C. 77b(b).

[123] 15 U.S.C. 78c(f).

[124] We believe there will be a *de minimis* impact from adoption of the proposed amendments regarding the elimination of magnetic cartridge transmission and Form ET.

[125] 5 U.S.C. 603.

[126] As previously noted, we believe there will be a *de minimis* impact from adoption of the proposed amendments regarding the elimination of magnetic cartridge transmission and Form ET.

[127] 17 CFR 240.0–10(a).

[128] We estimated the number of small entity non-investment company insiders based on our estimates of the total number of insiders; the percentage of these insiders that are greater than ten percent holders; the percentage of these greater than ten percent holders that are non-natural persons; and the percentage of these non-natural persons that are small entities.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Before the effective date of the rule and form amendments adopted in this release, insiders may file Forms 3, 4 and 5 in paper or electronically and issuers with corporate websites need not post Forms 3, 4 and 5 as to their equity securities on their Web sites. The amendments require insiders to file these forms electronically and issuers with corporate Web sites to post these forms. Because insiders already file these forms in paper, the only additional professional skills insiders will need will be those required to file electronically. Because the website posting requirements apply only to issuers that already have corporate Web sites, we believe these issuers will need no additional professional skills to post these forms on their Web sites. We expect that filing electronically and Web site posting will increase costs incurred by some small entities. However, we expect that many small entity insiders and small entity issuers will not bear the full range of costs resulting from the adoption of these amendments for the reasons described below.

The expected costs of mandated electronic filing consist of both initial and ongoing costs. Initial costs are those associated with obtaining, completing and sending to the Commission a Form ID to obtain filing credentials, and the purchase of compatible computer equipment and software. Initial costs further include those associated with learning about the electronic filing system, placing the filing data in electronic format for the initial electronic filing and subscribing to an Internet service provider. Ongoing costs are those associated with maintaining the framework developed through the initial costs (for example, updating information required by Form ID) and any additional costs arising from each subsequent filing (for example, placing the new filing data in electronic format).[129]

We expect that many small entity insiders will need to incur few, if any, additional costs from electronic filing. Some issuers may help their small entity insiders or submit the small entity insiders' filings on their behalf. To the extent small entity insiders do not receive this assistance, we believe many already will have the necessary computer equipment and Internet access to enable them to file using the templates that will appear on the Commission's Web site. Finally, some small entity insiders already may have filed Forms ID and gained experience in arranging electronic filing.[130]

Even those small entity issuers that assist their insiders to file electronically, whether to a greater or lesser extent, are not likely to incur additional costs. Small entity issuers already are required to file on EDGAR and generally have the necessary computer equipment and Internet service provider access to enable them to facilitate filing using the templates that will appear on the Commission's Web site.

Small entity issuers should incur relatively few direct costs from the website posting requirement. Because the requirement applies only to those small entity issuers that already have a corporate Web site, small entity issuers will not need to incur the costs associated with creating or maintaining a Web site. In addition, small entity issuers could limit their additional costs associated with posting by hyperlinking to a third-party Web site such as EDGAR.

E. Agency Action To Minimize Effect on Small Entities

As required by the Regulatory Flexibility Act, we have considered alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the amendments, we considered the following alternatives:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- The clarification, consolidation, or simplification of filing or posting requirements;
- The use of performance rather than design standards; and
- An exemption from the electronic filing and Web site posting requirements, or any part of them, for small entities.

We believe that differing compliance or reporting requirements or timetables for small entities (or a partial or complete exemption) would be inconsistent with the will of Congress as reflected in amended section 16(a) and the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information in a manner that will benefit investors, filers and the Commission. We did not receive any response to our solicitation of comment on whether differing compliance or reporting requirements or timetables for small entities would be consistent with the statutory mandate and described goals. We believe that the adopted electronic filing and web site posting requirements are clear and straightforward. We have attempted to design an electronic filing system for these forms that will be simple for all filers to use. Therefore, it does not seem necessary to develop separate requirements for small entities. We have used design rather than performance standards in connection with the electronic filing and Web site posting requirements because we want investors to know where to find the information, and want both investors and the Commission to be readily able to analyze, store and retrieve the information involved. We also want the information disseminated to be in a comparable form for both large and small issuers. We do not believe that performance standards for small entities would be consistent with the purpose of the statutory amendments.

VIII. Statutory Basis

We are adopting the amendments to Regulation S–T, the Code of Federal Regulations description of Form 144, Rule 16a–3, and Forms 3, 4 and 5, and the removal of Form ET under the authority in section 19(a) of the Securities Act, sections 3(b), 16, 23(a) and 35A of the Exchange Act, section 17(a) of the Public Utility Act, section 319 of the Trust Indenture Act, section 30(h) of the Investment Company Act, and section 3(a) of the Sarbanes-Oxley Act.

Text of Rule Amendments

List of Subjects in 17 CFR Parts 230, 232, 239, 240, 249, 250, 259, 260, 269 and 274

Reporting and recordkeeping requirements, Securities.

■ For the reasons set forth above, we amend title 17, chapter II of the Code of Federal Regulations as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 77z–3, 78c, 78d, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

■ 2. Amend § 230.110 by revising paragraph (b) to read as follows:

§ 230.110 Business hours of the Commission.

* * * * *

[129] Other minor costs could include, for example, preparing a filing date adjustment request.

[130] Approximately 38% of the Forms 3, 4 and 5 filed in March 2003 were filed electronically.

(b) *Submissions made in paper.* Paper documents filed with or otherwise furnished to the Commission may be submitted each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 3. The authority citation for Part 232 continues to read, in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

* * * * *

■ 4. Amend § 232.12 by revising paragraph (b) to read as follows:

§ 232.12 Business hours of the Commission.

* * * * *

(b) *Submissions made in paper.* Filers may submit paper documents filed with or otherwise furnished to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

* * * * *

■ 5. Amend § 232.13 by adding paragraph (a)(4) before the Note to read as follows:

§ 232.13 Date of filing; Adjustment of filing date.

(a) *General.*

* * * * *

(4) Notwithstanding paragraph (a)(2) of this section, a Form 3, 4 or 5 (§§ 249.103, 249.104 and 249.105 of this chapter) submitted by direct transmission on or before 10 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the same business day.

Note: * * *

* * * * *

■ 6. Amend § 232.101 by:

■ a. Revising paragraph (a)(1)(iii) (the Notes following the paragraph are unchanged);

■ b. Removing paragraph (b)(4); and

■ c. Redesignating paragraphs (b)(5) through (b)(10) as paragraphs (b)(4) through (b)(9).

The revision reads as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(iii) Statements, reports and schedules filed with the Commission pursuant to sections 13, 14, 15(d) or 16(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d) and 78p(a)), and proxy materials required to be furnished for the information of the Commission in connection with annual reports on Form 10–K (§ 249.310 of this chapter), or Form 10–KSB (§ 249.310b of this chapter) filed pursuant to section 15(d) of the Exchange Act.

* * * * *

■ 7. Amend § 232.104 by revising paragraph (a) to read as follows:

§ 232.104 Unofficial PDF Copies Included in an Electronic Submission.

(a) An electronic submission, other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter) or a Form 5 (§ 249.105 of this chapter), may include one unofficial PDF copy of each electronic document contained within that submission, tagged in the format required by the EDGAR filer manual.

* * * * *

■ 8. Amend § 232.201 by revising paragraph (a) introductory text to read as follows:

§ 232.201 Temporary hardship exemption.

(a) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing, other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter) or a Form 5 (§ 249.105 of this chapter), the electronic filer may file the subject filing, under cover of Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter), in paper format no later than one business day after the date on which the filing was to be made.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

9. The authority citation for Part 239 is amended by revising the subauthority for ''Secs. 239.62, 239.63 and 239.64'' to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l,* 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79(e), 79f, 79g, 79j, 79*l,* 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

Secs. 239.63 and 239.64 also issued under secs. 6, 7, 8, 10 and 19(a) of the Securities Act (15 U.S.C. 77f, 77g, 77h, 77j and 77s(a)); secs. 3(b), 12, 13, 14, 15(d) and 23(a) of the Exchange Act (15 U.S.C. 78c(b), 78*l,* 78m, 78n, 78o(d) and 78w(a)); secs. 5, 6, 7, 10, 12, 13, 14, 17 and 20 of the Holding Company Act (15 U.S.C. 79e, 79f, 79g, 79j, 79*l,* 79m, 79n, 79q and 79t); sec. 319(a) of the Trust Indenture Act (15 U.S.C. 77sss(a)) and secs. 8, 24, 30 and 38 of the Investment Company Act (15 U.S.C. 80a–8, 80a–24, 80a–29 and 80a–37).

§ 239.62 [Removed and Reserved]

■ 10. Remove and reserve § 239.62.

§ 239.144 [Amended]

■ 11. Amend § 239.144 by removing the seventh sentence in paragraph (c).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 12. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

■ 13. Amend § 240.0–2 by revising paragraph (b) to read as follows:

§ 240.0–2 Business hours of the Commission.

* * * * *

(b) *Submissions made in paper.* Paper documents filed with or otherwise furnished to the Commission may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

* * * * *

■ 14. Amend § 240.16a–3 by revising paragraph (h) and adding paragraph (k) to read as follows:

§ 240.16a–3 Reporting transactions and holdings.

* * * * *

(h) The date of filing with the Commission shall be the date of receipt by the Commission.

* * * * *

(k) Any issuer that maintains a corporate Web site shall post on that Web site by the end of the business day after filing any Form 3, 4 or 5 filed under section 16(a) of the Act as to the equity securities of that issuer. Each such form shall remain accessible on such issuer's Web site for at least a 12-month period. In the case of an issuer that is an investment company and that does not maintain its own Web site, if

any of the issuer's investment adviser, sponsor, depositor, trustee, administrator, principal underwriter, or any affiliated person of the investment company maintains a Web site that includes the name of the issuer, the issuer shall comply with the posting requirements by posting the forms on one such Web site.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 15. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.*, unless otherwise noted.

§ 249.445 [Removed and Reserved]

■ 16. Remove and reserve § 249.445.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

■ 17. The authority citation for Part 250 continues to read as follows:

Authority: 15 U.S.C. 79c, 79f(b), 79i(c)(3), 79t, unless otherwise noted.

■ 18. Amend § 250.21 by revising paragraph (b)(1) to read as follows:

§ 250.21 Filing of documents.

(a) * * *

(b) *Electronic filings.* (1) All documents required to be filed with the Commission under the Act or the rules and regulations thereunder must be filed at the principal office in Washington, DC via EDGAR by delivery to the Commission by direct transmission, via dial-up modem or Internet.

* * * * *

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

■ 19. The authority citation for Part 259 continues to read as follows:

Authority: 15 U.S.C. 79e, 79f, 79g, 79j, 79*l,* 79m, 79n, 79q, 79t.

§ 259.601 [Removed and Reserved]

■ 20. Remove and reserve § 259.601.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

■ 21. The authority citation for Part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78*ll1*(d), 80b–3, 80b–4, and 80b–11.

■ 22. Amend § 260.0–5 by revising paragraph (b) to read as follows:

§ 260.0–5 Business hours of the Commission.

* * * * *

(b) *Submissions made in paper.* Paper documents filed with or otherwise furnished to the Commission may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

* * * * *

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

■ 23. The authority citation for Part 269 continues to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, 78*ll*(d), unless otherwise noted.

§ 269.6 [Removed and Reserved]

■ 24. Remove and reserve § 269.6.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

25. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

■ 26. Amend Form 3 (referenced in § 249.103 and § 274.202) by:
■ a. Revising General Instruction 3(a);
■ b. Adding a note following General Instruction 3;
■ c. Revising General Instruction 5(b)(v);
■ d. Revising General Instruction 6;
■ e. Adding a new General Instruction 8;
■ f. Removing Item 3 and redesignating Items 4, 5, 6 and 7 to the information preceding Table I as Items 3, 4, 5 and 6 to the information preceding Table I; and
■ g. Revising newly redesignated Item 5 to the information preceding Table I.

The revisions and additions read as follows:

Note: The text of Form 3 does not and this amendment will not appear in the Code of Federal Regulations.

Form 3 Initial Statement of Beneficial Ownership of Securities

* * * * *

General Instructions

* * * * *

3. Where Form Must Be Filed

(a) A reporting person must file this Form in electronic format via the Commission's Electronic Data Gathering Analysis and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a filing person that has obtained a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202) may file the Form in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

* * * * *

Note: If filing pursuant to a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202), file three copies of this Form or any amendment, at least one of which is signed, with the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. (Acknowledgement of receipt by the Commission may be obtained by enclosing a self-addressed stamped postcard identifying the Form or amendment filed.)

* * * * *

5. Holdings Required To Be Reported

* * * * *

(b) Beneficial Ownership Reported (Pecuniary Interest).

* * * * *

(v) Where more than one person beneficially owns the same equity securities, such owners may file Form 3 individually or jointly. Joint and group filings may be made by any designated beneficial owner. Holdings of securities owned separately by any joint or group filer are permitted to be included in the joint filing. Indicate only the name and address of the designated filer in Item 1 of Form 3 and attach a list of the names and addresses of each other reporting person. Joint and group filings must include all required information for each beneficial owner, and such filings must be signed by each beneficial owner, or on behalf of such owner by an authorized person.

If this Form is being filed in paper pursuant to a hardship exemption and the space provided for signatures is insufficient, attach a signature page. If this Form is being filed in paper, submit any attached listing of names or signatures on another Form 3, copy of Form 3 or separate page of 8½ by 11 inch white paper, indicate the number of pages comprising the report (Form plus attachments) at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3), and include the name of the designated filer and information required by Items 2 and 3 of the Form on the attachment.

See Rule 16a–3(i) regarding signatures.

* * * * *

6. Additional Information

(a) If the space provided in the line items on the electronic Form is insufficient, use the space provided for footnotes. If the space provided for footnotes is insufficient, create a footnote that refers to an exhibit to the form that contains the additional information.

(b) If the space provided in the line items on the paper Form or space provided for additional comments is insufficient, attach another Form 3, copy of Form 3 or separate 8½ by 11 inch white paper to Form 3, completed as appropriate to include the additional comments. Each attached page must include information required in Items 1, 2 and 3 of the Form. The number of pages comprising the report (Form plus attachments) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3).

(c) If one or more exhibits are included, whether due to a lack of space or because the exhibit is, by nature, a separate document (*e.g.*, a power of attorney), provide a sequentially numbered list of the exhibits in the Form. Use the number ''24'' for any power of attorney and the number ''99'' for any other exhibit. If there is more than one of either such exhibit, then use numerical subparts. If the exhibit is being filed as a confirming electronic copy under Regulation S–T Rule 202(d) (17 CFR 232.202(d)), then place the designation ''CE'' (confirming exhibit) next to the name of the exhibit in the exhibit list. If the exhibit is being filed in paper pursuant to a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202), then place the designation ''P'' (paper) next to the name of the exhibit in the exhibit list.

(d) If additional information is not reported as provided in paragraph (a), (b) or (c) of this instruction, whichever apply, it will be assumed that no additional information was provided.

* * * * *

8. Amendments

(a) If this Form is filed as an amendment in order to add one or more lines of ownership information to Table I or Table II of the Form being amended, provide each line being added, together with one or more footnotes, as necessary, to explain the addition of the line or lines. Do not repeat lines of ownership information that were disclosed in the original Form and are not being amended.

(b) If this Form is filed as an amendment in order to amend one or more lines of ownership information that already were disclosed in Table I or Table II of the Form being amended, provide the complete line or lines being amended, as amended, together with one or more footnotes, as necessary, to explain the amendment of the line or lines. Do not repeat lines of ownership information that were disclosed in the original Form and are not being amended.

(c) If this Form is filed as an amendment for any purpose other than or in addition to the purposes described in paragraphs (a) and (b) of this General Instruction 8, provide one or more footnotes, as necessary, to explain the amendment.

* * * * *

Form 3

* * * * *

5. If Amendment, Date Original Filed (Month/Day/Year)

* * * * *

Table I— Non-Derivative Securities Beneficially Owned

* * * * *

■ 27. Amend Form 4 (referenced in § 249.104 and § 274.203) by:

■ a. Revising General Instruction 2(a);

■ b. Adding a note following General Instruction 2;

■ c. Revising General Instruction 4(b)(v);

■ d. Revising General Instruction 6;

■ e. Adding new General Instruction 9;

■ f. Revising the form heading;

■ g. Removing Item 3 and redesignating Items 4, 5, 6 and 7 to the information preceding Table I as Items 3, 4, 5 and 6 to the information preceding Table I; and

■ h. Revising newly redesignated Items 3 and 4 to the information preceding Table I.

The revisions and additions read as follows:

Note: The text of Form 4 does not and this amendment will not appear in the Code of Federal Regulations.

Form 4 Statement of Changes in Beneficial Ownership of Securities

* * * * *

General Instructions

* * * * *

2. Where Form Must Be Filed

(a) A reporting person must file this Form in electronic format via the Commission's Electronic Data Gathering Analysis and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S–T (17 CFR Part 232), except that a filing person that has obtained a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202) may file the Form in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

Note: If filing pursuant to a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202), file three copies of this Form or any amendment, at least one of which is signed, with the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. (Acknowledgement of receipt by the Commission may be obtained by enclosing a self-addressed stamped postcard identifying the Form or amendment filed.)

* * * * *

4. Transactions and Holdings Required To Be Reported

* * * * *

(b) Beneficial Ownership Reported (Pecuniary Interest).

* * * * *

(v) Where more than one beneficial owner of the same equity securities must report the same transaction on Form 4, such owners may file Form 4 individually or jointly. Joint and group filings may be made by any designated beneficial owner. Transactions with respect to securities owned separately by any joint or group filer are permitted to be included in the joint filing. Indicate only the name and address of the designated filer in Item 1 of Form 4 and attach a list of the names and addresses of each other reporting person. Joint and group filings must include all required information for each beneficial owner, and such filings must be signed by each beneficial owner, or on behalf of such owner by an authorized person.

If this Form is being filed in paper pursuant to a hardship exemption and the space provided for signatures is insufficient, attach a signature page. If this Form is being filed in paper, submit any attached listing of names or signatures on another Form 4, copy of Form 4 or separate page of 8½ by 11 inch white paper, indicate the number of pages comprising the report (Form plus attachments) at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3), and include the name of the designated filer and information required by Items 2 and 3 of the Form on the attachment.

See Rule 16a–3(i) regarding signatures.

* * * * *

6. Additional Information

(a) If the space provided in the line items on the electronic Form is insufficient, use the space provided for footnotes. If the space provided for

footnotes is insufficient, create a footnote that refers to an exhibit to the form that contains the additional information.

(b) If the space provided in the line items on the paper Form or space provided for additional comments is insufficient, attach another Form 4, copy of Form 4 or separate 8½ by 11 inch white paper to Form 4, completed as appropriate to include the additional comments. Each attached page must include information required in Items 1, 2 and 3 of the Form. The number of pages comprising the report (Form plus attachments) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3).

(c) If one or more exhibits are included, whether due to a lack of space or because the exhibit is, by nature, a separate document (*e.g.*, a power of attorney), provide a sequentially numbered list of the exhibits in the Form. Use the number ''24'' for any power of attorney and the number ''99'' for any other exhibit. If there is more than one of either such exhibit, then use numerical subparts. If the exhibit is being filed as a confirming electronic copy under Regulation S–T Rule 202(d) (17 CFR 232.202(d)), then place the designation ''CE'' (confirming exhibit) next to the name of the exhibit in the exhibit list. If the exhibit is being filed in paper pursuant to a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202), then place the designation ''P'' (paper) next to the name of the exhibit in the exhibit list.

(d) If additional information is not reported as provided in paragraph (a), (b) or (c) of this instruction, whichever apply, it will be assumed that no additional information was provided.

* * * * *

9. Amendments

(a) If this Form is filed as an amendment in order to add one or more lines of transaction information to Table I or Table II of the Form being amended, provide each line being added, together with one or more footnotes, as necessary, to explain the addition of the line or lines. Do not repeat lines of transaction information that were disclosed in the original Form and are not being amended.

(b) If this Form is filed as an amendment in order to amend one or more lines of transaction information that already were disclosed in Table I or Table II of the Form being amended, provide the complete line or lines being amended, as amended, together with one or more footnotes, as necessary, to explain the amendment of the line or lines. Do not repeat lines of transaction information that were disclosed in the original Form and are not being amended.

(c) If this Form is filed as an amendment for any purpose other than or in addition to the purposes described in paragraphs (a) and (b) of this General Instruction 9, provide one or more footnotes, as necessary, to explain the amendment.

Form 4 Statement of Changes in Beneficial Ownership of Securities

Item 3. Date of Earliest Transaction Required to be Reported (Month/Day/Year)

Item 4. If Amendment, Date Original Filed (Month/Day/Year)

Table I—Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

■ 28. Amend Form 5 (referenced in § 249.105) by:

■ a. Revising General Instruction 2(a);

■ b. Adding a note following General Instruction 2;

■ c. Revising General Instruction 4(b)(v);

■ d. Revising General Instruction 6;

■ e. Adding a new General Instruction 9;

■ f. Revising the form heading;

■ g. Removing Item 3 and redesignating Items 4, 5, 6 and 7 to the information preceding Table I as Items 3, 4, 5 and 6;

■ h. Revising newly redesignated Items 3 and 4 to the information preceding Table I;

■ i. Adding a sentence immediately below Table I;

■ j. Revising the heading for columns 9 and 10 in Table II.

The revisions and additions read as follows:

Note: The text of Form 5 does not and this amendment will not appear in the Code of Federal Regulations.

Form 5 Annual Statement of Beneficial Ownership of Securities

* * * * *

General Instructions

* * * * *

2. Where Form Must Be Filed

(a) A reporting person must file this Form in electronic format via the Commission's Electronic Data Gathering Analysis and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S–T (17 CFR part 232), except that a filing person that has obtained a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202) may file the Form in paper. For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 942–8900. For assistance with questions about the EDGAR rules, call the Office of EDGAR and Information Analysis at (202) 942–2940.

* * * * *

Note: If filing pursuant to a hardship exception under Regulation S–T Rule 202 (17 CFR 232.202), file three copies of this Form or any amendment, at least one of which is signed, with the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. (Acknowledgement of receipt by the Commission may be obtained by enclosing a self-addressed stamped postcard identifying the Form or amendment filed.)

* * * * *

4. Transactions and Holdings Required To Be Reported

* * * * *

(b) Beneficial Ownership Reported (Pecuniary Interest).

* * * * *

(v) Where more than one beneficial owner of the same equity securities must report the same transaction or holding on Form 5, such owners may file Form 5 individually or jointly. Joint and group filings may be made by any designated beneficial owner. Transactions and holdings with respect to securities owned separately by any joint or group filer are permitted to be included in the joint filing. Indicate only the name and address of the designated filer in Item 1 of Form 5 and attach a list of the names and addresses of each other reporting person. Joint and group filings must include all required information for each beneficial owner, and such filings must be signed by each beneficial owner, or on behalf of such owner by an authorized person.

If this Form is being filed in paper pursuant to a hardship exemption and the space provided for signatures is insufficient, attach a signature page. If this Form is being filed in paper, submit any attached listing of names or signatures on another Form 5, copy of Form 5 or separate page of 8½ by 11 inch white paper, indicate the number of pages comprising the report (Form plus attachments) at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3), and include the name of the designated filer and information required by Items 2 and 3 of the Form on the attachment.

See Rule 16a–3(i) regarding signatures.

* * * * *

6. Additional Information

(a) If the space provided in the line items on the electronic Form is insufficient, use the space provided for footnotes. If the space provided for footnotes is insufficient, create a

footnote that refers to an exhibit to the form that contains the additional information.

(b) If the space provided in the line items on the paper Form or space provided for additional comments is insufficient, attach another Form 5, copy of Form 5 or separate 8½ by 11 inch white paper to Form 5, completed as appropriate to include the additional comments. Each attached page must include information required in Items 1, 2 and 3 of the Form. The number of pages comprising the report (Form plus attachments) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3).

(c) If one or more exhibits are included, whether due to a lack of space or because the exhibit is, by nature, a separate document (*e.g.*, a power of attorney), provide a sequentially numbered list of the exhibits in the Form. Use the number ''24'' for any power of attorney and the number ''99'' for any other exhibit. If there is more than one of either such exhibit, then use numerical subparts. If the exhibit is being filed as a confirming electronic copy under Regulation S–T Rule 202(d) (17 CFR 232.202(d)), then place the designation ''CE'' (confirming exhibit) next to the name of the exhibit in the exhibit list. If the exhibit is being filed in paper pursuant to a hardship exception under Regulation S-T Rule 202 (17 CFR 232.202), then place the designation ''P'' (paper) next to the name of the exhibit in the exhibit list.

(d) If additional information is not reported as provided in paragraph (a), (b) or (c) of this instruction, whichever apply, it will be assumed that no additional information was provided.

* * * * *

9. Amendments

(a) If this Form is filed as an amendment in order to add one or more lines of transaction or ownership information to Table I or Table II of the Form being amended, provide each line being added, together with one or more footnotes, as necessary, to explain the addition of the line or lines. Do not repeat lines of transaction or ownership information that were disclosed in the original Form and are not being amended.

(b) If this Form is filed as an amendment in order to amend one or more lines of transaction or ownership information that already were disclosed in Table I or Table II of the Form being amended, provide the complete line or lines being amended, as amended, together with one or more footnotes, as necessary, to explain the amendment of the line or lines. Do not repeat lines of transaction or ownership information that were disclosed in the original Form and are not being amended.

(c) If this Form is filed as an amendment for any purpose other than or in addition to the purposes described in paragraphs (a) and (b) of this General Instruction 9, provide one or more footnotes, as necessary, to explain the amendment.

* * * * *

Form 5 Annual Statement of Changes in Beneficial Ownership of Securities

* * * * *

3. Statement for Issuer's Fiscal Year Ended (Month/Day/Year)

4. If Amendment, Date Original Filed (Month/Day/Year)

* * * * *

Table I—Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

* * * * *

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

*If the form is filed by more than one reporting person, see instruction 4(b)(v).

Table II—Derivative Securities Acquired, Disposed of, or Beneficially Owned (*e.g.*, puts, calls, warrants, options, convertible securities)

* * * * *

9. Number of Derivative Securities Beneficially Owned at End of Issuer's Fiscal Year (Instr. 4)

10. Ownership Form of Derivative Securities: Direct (D) or Indirect (I) (Instr. 4)

* * * * *

§ 274.401 [Removed and Reserved]

■ 29. Remove and reserve § 274.401.

By the Commission.

Dated: May 7, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11824 Filed 5–12–03; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Tuesday,
May 13, 2003

Part V

The President

Executive Order 13300—Facilitating the Administration of Justice in the Federal Courts

Federal Register
Vol. 68, No. 92
Tuesday, May 13, 2003

Presidential Documents

Title 3—

The President

Executive Order 13300 of May 9, 2003

Facilitating the Administration of Justice in the Federal Courts

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the prompt appointment of judges to the Federal courts, it is hereby ordered as follows:

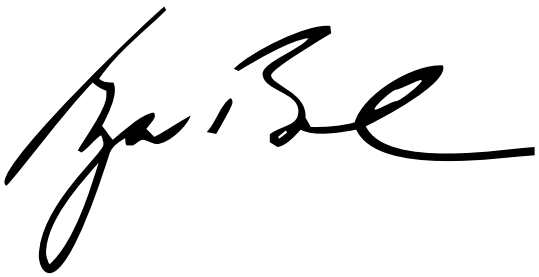
Section 1. *Policy.* The Federal courts play a central role in the American justice system. For the Federal courts to function effectively, judicial vacancies in those courts must be filled in a timely manner with well-qualified candidates.

Sec. 2. *Plan.* The presidential plan announced on October 30, 2002, calls for timely consideration of judicial nominees, with the President submitting a nomination to fill a vacancy in United States courts of appeals and district courts within 180 days after the President receives notice of a vacancy or intended retirement, absent extraordinary circumstances.

Sec. 3. *Responsibilities.* The Counsel to the President shall take all appropriate steps to ensure that the President is in a position to make timely nominations for judicial vacancies consistent with this plan. All Federal departments and agencies shall assist, as requested and permitted by law, in the implementation of this order.

Sec. 4. *Reservation of Authority.* Nothing in this order shall be construed to affect the authority of the President to fill vacancies under clause 3 of section 2 of article II of the Constitution.

Sec. 5. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 9, 2003.

[FR Doc. 03–12071
Filed 5–12–03; 9:24 am]
Billing code 3195–01–P

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